

# ► Application of International Labour Standards 2020

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

International Labour Conference  
109th Session, 2020



International Labour Conference, 109th Session, 2020

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

*(articles 19, 22, 23 and 35 of the Constitution)*

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

**Report III (Part A)**

General Report  
and observations concerning particular countries

ISBN 978-92-2-132384-6 (print)  
ISBN 978-92-2-132385-3 (Web pdf)  
ISSN 0074-6681

---

*First edition 2020*

---

The publication of information concerning action taken in respect of international labour Conventions and Recommendations does not imply any expression of view by the International Labour Office on the legal status of the State having communicated such information (including the communication of a ratification or declaration), or on its authority over the areas or territories in respect of which such information is communicated; in certain cases this may present problems on which the ILO is not competent to express an opinion.

Information on ILO publications and digital products can be found at: [www.ilo.org/publns](http://www.ilo.org/publns).

---

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 1–4**).
- (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 5–36**).
- (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 37–619**).
- (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 Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), (**Part B**).

The report of the Committee of Experts is also available at: [www.ilo.org/normes](http://www.ilo.org/normes)



<b>READER'S NOTE</b> .....	<b>1</b>
Overview of the ILO supervisory mechanisms .....	1
Role of employers' and workers' organizations .....	1
Origins of the Conference Committee on the Application of Standards and the Committee of Experts on the Application of Conventions and Recommendations .....	2
Committee of Experts on the Application of Conventions and Recommendations .....	2
Committee on the Application of Standards of the International Labour Conference .....	3
The Committee of Experts and the Conference Committee on the Application of Standards .....	4
<b>PART I.    GENERAL REPORT</b> .....	<b>5</b>
<b>I.    INTRODUCTION</b> .....	<b>7</b>
Composition of the Committee .....	7
Working methods .....	7
Relations with the Conference Committee on the Application of Standards .....	8
Mandate .....	11
Centenary round table on monitoring compliance with ILO standards: Significant achievements and opportunities ahead .....	11
<b>II.    COMPLIANCE WITH STANDARDS-RELATED OBLIGATIONS</b> .....	<b>13</b>
A. Reports on ratified Conventions (articles 22 and 35 of the Constitution and Compliance with article 23, paragraph 2, of the Constitution) .....	13
B. Examination by the Committee of Experts of reports on ratified Conventions .....	16
C. Reports under article 19 of the Constitution .....	29
D. Collaboration with the United Nations .....	29
E. Submission of instruments adopted by the Conference to the competent authorities (article 19, paragraphs 5, 6 and 7, of the Constitution) .....	30
<b>APPENDIX TO THE GENERAL REPORT</b> .....	<b>33</b>
Composition of the Committee of Experts on the Application of Conventions and Recommendations .....	33
<b>PART II.    OBSERVATIONS CONCERNING PARTICULAR COUNTRIES</b> .....	<b>37</b>
<b>I.    OBSERVATIONS CONCERNING REPORTS ON RATIFIED CONVENTIONS     (ARTICLES 22 AND 35 OF THE CONSTITUTION)</b> .....	<b>39</b>
Observations on serious failure to report .....	39
Freedom of association, collective bargaining, and industrial relations .....	43
Forced labour .....	201
Elimination of child labour and protection of children and young persons .....	255
Equality of opportunity and treatment .....	357
Tripartite consultation .....	449
Labour administration and inspection .....	461
Employment policy and promotion .....	497
Vocational guidance and training .....	513
Employment security .....	519
Wages .....	521
Working time .....	529
Occupational safety and health .....	531
Social security .....	541
Maternity protection .....	555
Social policy .....	557
Migrant workers .....	565
Seafarers .....	571
Fishers .....	573
Dockworkers .....	577
Indigenous and tribal peoples .....	583
Specific categories of workers .....	595

<b>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)</b> .....	<b>607</b>
<b>APPENDICES</b>	
I. Reports requested on ratified Conventions registered as at 7 December 2019 (articles 22 and 35 of the Constitution) .....	623
II. Statistical table of reports received on ratified Conventions as at 7 December 2019 (article 22 of the Constitution) .....	637
III. List of observations made by employers' and workers' organizations .....	640
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 .....	651
V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities (31st to 108th Sessions of the International Labour Conference, 1948–2019) .....	653
VI. Overall position of member States with regard to the submission to the competent authorities of the instruments adopted by the Conference (as of 7 December 2019) .....	667
VII. Comments made by the Committee, by country .....	669

## List of Conventions and Protocols by Subject

*Fundamental Conventions are in bold. Priority conventions are in italics.*

- ★ 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 *Labour Inspection Convention, 1947 (No. 81)*
- C085 Labour Inspectorates (Non-Metropolitan Territories) Convention, 1947 (No. 85)
- C129 *Labour Inspection (Agriculture) Convention, 1969 (No. 129)*
- 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 Fee-Charging Employment Agencies Convention, 1933 (No. 34)
- C088 Employment Service Convention, 1948 (No. 88)
- C096 Fee-Charging Employment Agencies Convention (Revised), 1949 (No. 96)
- C122 *Employment Policy Convention, 1964 (No. 122)*
- 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)

**10 Wages**

- C026 Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)
- ★ 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)

**11 Working time**

- C001 Hours of Work (Industry) Convention, 1919 (No. 1)
- C004 Night Work (Women) Convention, 1919 (No. 4)
- C014 Weekly Rest (Industry) Convention, 1921 (No. 14)
- C020 Night Work (Bakeries) Convention, 1925 (No. 20)
- C030 Hours of Work (Commerce and Offices) Convention, 1930 (No. 30)
- C031 Hours of Work (Coal Mines) Convention, 1931 (No. 31)
- C041 Night Work (Women) Convention (Revised), 1934 (No. 41)
- C043 Sheet-Glass Works Convention, 1934 (No. 43)
- C046 Hours of Work (Coal Mines) Convention (Revised), 1935 (No. 46)
- C047 Forty-Hour Week Convention, 1935 (No. 47)
- C049 Reduction of Hours of Work (Glass-Bottle Works) Convention, 1935 (No. 49)
- C051 Reduction of Hours of Work (Public Works) Convention, 1936 (No. 51)
- C052 Holidays with Pay Convention, 1936 (No. 52)
- C061 Reduction of Hours of Work (Textiles) Convention, 1937 (No. 61)
- C067 Hours of Work and Rest Periods (Road Transport) Convention, 1939 (No. 67)
- ★ 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)
- C175 Part-Time Work Convention, 1994 (No. 175)
- P089 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

**12 Occupational safety and health**

- C013 White Lead (Painting) Convention, 1921 (No. 13)
- 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)
- C120 Hygiene (Commerce and Offices) Convention, 1964 (No. 120)
- C127 Maximum Weight Convention, 1967 (No. 127)
- C136 Benzene Convention, 1971 (No. 136)
- 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

**13 Social security**

- ★ 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)
- C037 Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)
- C038 Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)
- C039 Survivors' Insurance (Industry, etc.) Convention, 1933 (No. 39)
- C040 Survivors' Insurance (Agriculture) Convention, 1933 (No. 40)
- ★ 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)

**16 Migrant workers**

- 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)

**17 Seafarers**

- ★ 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)

<b>19</b>	<b>Dockworkers</b>	
	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)
<b>20</b>	<b>Indigenous and tribal peoples</b>	
	□ 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)
<b>21</b>	<b>Specific categories of workers</b>	
	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
<b>22</b>	<b>Final Articles Conventions</b>	
	C080	Final Articles Revision Convention, 1946 (No. 80)
	C116	Final Articles Revision Convention, 1961 (No. 116)

## Index of comments by Convention

<b>C011</b>			
Burundi .....	86	United Republic of Tanzania.....	239
<b>C012</b>		Viet Nam .....	251
Haiti.....	544	Zambia.....	251
<b>C017</b>		<b>C032</b>	
Haiti.....	544	Algeria.....	577
Hungary.....	546	<b>C037</b>	
Lebanon.....	548	Djibouti.....	542
Panama.....	550	<b>C038</b>	
Saint Lucia .....	550	Djibouti.....	542
Sierra Leone .....	551	<b>C042</b>	
United Kingdom.....	552	Greece.....	543
United Republic of Tanzania.....	551	Haiti.....	544
<b>C019</b>		Honduras .....	546
Djibouti .....	541	<b>C081</b>	
Dominican Republic.....	543	General observation.....	461
Lebanon.....	548	Albania .....	462
Peninsular Malaysia (Malaysia) .....	549	Bangladesh .....	464
Republic of Korea .....	547	Congo .....	466
Sarawak (Malaysia).....	549	Dominica .....	466
Thailand .....	552	Ecuador.....	467
United Republic of Tanzania.....	551	Grenada .....	467
<b>C024</b>		Honduras .....	468
Chile.....	541	India.....	469
Djibouti .....	542	Italy.....	471
Haiti.....	544	Lebanon.....	473
<b>C025</b>		Malta.....	474
Chile.....	541	Pakistan .....	478
Haiti.....	544	Poland.....	480
<b>C026</b>		Portugal .....	481
Bolivarian Republic of Venezuela .....	527	Qatar .....	482
Burundi .....	522	Republic of Korea .....	472
Comoros.....	522	Republic of Moldova.....	474
Djibouti .....	523	Russian Federation .....	484
Guinea-Bissau .....	524	Saint Vincent and the Grenadines .....	486
Rwanda .....	524	Saudi Arabia.....	487
Uganda .....	525	Serbia.....	488
<b>C029</b>		Sierra Leone .....	489
Congo.....	202	Sri Lanka .....	490
Chad .....	201	Sudan.....	491
Dominica.....	203	Tajikistan.....	492
Lebanon.....	208	Uganda .....	492
Mauritania .....	209	Ukraine.....	493
Mexico .....	213	United Kingdom .....	495
Mongolia .....	216	<b>C087</b>	
Myanmar .....	217	Albania .....	43
Oman.....	220	Algeria .....	44
Pakistan .....	221	Argentina.....	49
Philippines.....	223	Australia .....	52
Poland .....	226	Bahamas .....	55
Qatar.....	227	Bangladesh .....	56
Saudi Arabia.....	231	Barbados.....	66
Senegal.....	233	Belarus.....	67
Sierra Leone .....	235	Belize.....	72
Sri Lanka .....	235	Benin .....	73
Sudan.....	237	Bosnia and Herzegovina.....	76
Syrian Arab Republic.....	238	Botswana .....	76
Thailand .....	239	Bulgaria .....	83
		Burkina Faso.....	85

Burundi.....	86	Algeria .....	47
Cambodia .....	88	Angola .....	48
Cameroon .....	92	Australia .....	54
Canada.....	94	Azerbaijan .....	54
Central African Republic .....	95	Bahamas .....	55
Colombia.....	107	Bangladesh .....	62
Congo.....	116	Barbados .....	67
Costa Rica .....	117	Belarus.....	70
Cuba .....	120	Belize.....	73
Chad .....	97	Botswana .....	77
Chile.....	98	Brazil .....	79
Democratic Republic of the Congo .....	120	Bulgaria .....	84
Djibouti .....	122	Burkina Faso.....	85
Dominican Republic.....	123	Burundi.....	87
Ecuador .....	125	Cambodia.....	90
Egypt .....	127	Cameroon .....	93
El Salvador.....	130	Central African Republic.....	96
Equatorial Guinea.....	132	Colombia .....	112
Eritrea.....	133	Comoros .....	116
Ethiopia .....	135	Costa Rica.....	117
Fiji .....	138	Croatia .....	119
Gambia .....	142	Chile .....	100
Guatemala .....	143	Democratic Republic of the Congo .....	121
Haiti.....	151	Denmark .....	122
Honduras .....	152	Dominican Republic .....	124
Hong Kong Special Administrative Region (China) .....	102	Ecuador.....	126
Japan.....	156	Egypt .....	129
Kazakhstan .....	159	El Salvador .....	131
Kyrgyzstan .....	162	Equatorial Guinea .....	132
Liberia .....	163	Eritrea .....	134
Macau Special Administrative Region (China)....	104	Ethiopia .....	137
North Macedonia.....	165	Fiji .....	141
Philippines.....	167	Gambia .....	142
Plurinational State of Bolivia .....	74	Guatemala.....	146
Romania .....	171	Guinea-Bissau.....	149
Rwanda.....	174	Guyana.....	150
Saint Lucia .....	177	Haiti .....	151
Serbia .....	178	Hong Kong Special Administrative Region (China).....	102
Somalia.....	179	Liberia .....	164
South Africa .....	180	Macau Special Administrative Region (China) ...	105
Trinidad and Tobago .....	183	Mozambique .....	165
Turkey .....	185	North Macedonia .....	166
Uganda .....	194	Papua New Guinea .....	166
Zimbabwe.....	197	Plurinational State of Bolivia.....	75
<b>C088</b>		Romania.....	172
Nigeria.....	502	Rwanda .....	175
<b>C094</b>		Saint Kitts and Nevis .....	176
Dominica .....	557	Saint Lucia.....	177
<b>C095</b>		Sao Tome and Principe.....	177
Bolivarian Republic of Venezuela .....	527	Sierra Leone.....	178
Comoros .....	522	Somalia .....	179
Costa Rica .....	523	Sri Lanka .....	181
Djibouti .....	523	Sudan .....	182
Guinea .....	524	Trinidad and Tobago .....	184
Ukraine.....	525	Turkey .....	188
<b>C097</b>		Uganda.....	195
Barbados.....	565	Uruguay .....	196
Cyprus .....	566	Zimbabwe .....	199
New Zealand .....	567	<b>C099</b>	
<b>C098</b>		Comoros .....	522
Albania .....	43	Djibouti.....	523

<b>C100</b>			
Afghanistan .....	361	Sudan .....	237
Antigua and Barbuda .....	363	Syrian Arab Republic .....	239
Australia .....	365	Thailand .....	244
Bangladesh .....	368	Togo .....	245
Barbados .....	372	Turkmenistan .....	246
Cabo Verde .....	374	Uganda .....	248
Cameroon .....	376	Uzbekistan .....	249
Congo .....	378	<b>C107</b>	
Costa Rica .....	379	Panama .....	593
Cuba .....	381	<b>C110</b>	
El Salvador .....	385	Ecuador .....	597
Eswatini .....	388	<b>C111</b>	
Ghana .....	389	Afghanistan .....	362
Greece .....	391	Albania .....	363
Guatemala .....	397	Antigua and Barbuda .....	364
Guyana .....	398	Australia .....	366
Honduras .....	401	Bangladesh .....	369
Jamaica .....	403	Barbados .....	372
Lebanon .....	404	Benin .....	373
Libya .....	406	Cabo Verde .....	376
Madagascar .....	407	Cameroon .....	377
Malaysia .....	409	Congo .....	378
Malta .....	410	Croatia .....	380
Mongolia .....	412	Cuba .....	382
Nepal .....	413	Cyprus .....	384
Nicaragua .....	415	El Salvador .....	386
Nigeria .....	416	Equatorial Guinea .....	387
Panama .....	419	Eritrea .....	388
Plurinational State of Bolivia .....	374	Eswatini .....	389
Rwanda .....	423	Ghana .....	390
Saint Kitts and Nevis .....	423	Greece .....	392
Saint Lucia .....	424	Guinea .....	397
Saint Vincent and the Grenadines .....	424	Guyana .....	399
Sao Tome and Principe .....	424	India .....	402
Singapore .....	429	Jordan .....	404
Slovakia .....	430	Lebanon .....	405
Syrian Arab Republic .....	435	Libya .....	406
Trinidad and Tobago .....	440	Madagascar .....	407
Turkey .....	441	Malawi .....	408
United Arab Emirates .....	445	Malta .....	411
United Republic of Tanzania .....	437	Mongolia .....	412
<b>C103</b>		Nepal .....	414
Equatorial Guinea .....	555	Nigeria .....	417
Zambia .....	555	North Macedonia .....	419
<b>C105</b>		Papua New Guinea .....	420
Belize .....	201	Poland .....	421
Eritrea .....	203	Sao Tome and Principe .....	426
Guatemala .....	204	Saudi Arabia .....	427
Jamaica .....	205	Slovakia .....	431
Kazakhstan .....	206	Slovenia .....	432
Kenya .....	207	Tajikistan .....	435
Kiribati .....	207	Togo .....	439
Madagascar .....	209	Trinidad and Tobago .....	441
Mauritania .....	212	Turkey .....	442
Mozambique .....	217	United Arab Emirates .....	446
Oman .....	221	United Kingdom .....	446
Pakistan .....	223	United Republic of Tanzania .....	437
Philippines .....	225	<b>C112</b>	
Qatar .....	230	Liberia .....	573
Rwanda .....	231	Peru .....	574
Senegal .....	234	<b>C113</b>	
		Liberia .....	573

Peru .....	574	Dominica .....	258
Spain.....	575	Eritrea .....	259
<b>C114</b>		Ethiopia .....	260
Liberia.....	573	Gabon .....	262
Peru .....	574	Gambia .....	266
Spain.....	575	Ghana.....	268
<b>C115</b>		Guyana.....	271
Belize .....	531	Jamaica .....	276
Lebanon.....	535	Kenya.....	279
Turkey.....	537	Lao People's Democratic Republic .....	280
<b>C117</b>		Lebanon .....	282
Jamaica .....	557	Madagascar.....	285
Nicaragua .....	558	Mauritania .....	289
Paraguay.....	560	Mongolia .....	296
Spain.....	562	Namibia .....	299
<b>C118</b>		Pakistan .....	300
Barbados.....	541	Papua New Guinea .....	303
Guinea .....	544	Paraguay .....	306
<b>C119</b>		Philippines .....	311
Sierra Leone .....	536	Samoa .....	315
Turkey.....	537	Saudi Arabia .....	317
<b>C121</b>		Senegal .....	317
Uruguay.....	553	Sierra Leone.....	321
<b>C122</b>		Sri Lanka .....	325
Djibouti .....	497	Sudan.....	327
Libya .....	498	Syrian Arab Republic .....	329
Madagascar .....	500	Tajikistan .....	331
Mozambique.....	501	Thailand.....	334
Paraguay.....	504	Togo.....	337
Serbia .....	505	Turkmenistan.....	340
Spain.....	506	Uganda.....	340
Thailand .....	509	United Republic of Tanzania .....	332
Ukraine.....	511	Viet Nam .....	347
<b>C125</b>		Yemen .....	348
Sierra Leone .....	575	Zambia.....	351
Trinidad and Tobago .....	576	<b>C139</b>	
<b>C126</b>		Guyana.....	535
Spain.....	575	<b>C140</b>	
<b>C127</b>		Guyana.....	513
Turkey.....	537	<b>C141</b>	
<b>C129</b>		Brazil .....	82
General observation.....	461	<b>C142</b>	
Albania .....	462	Netherlands.....	516
Italy .....	471	Republic of Korea.....	513
Malta .....	474	<b>C143</b>	
Poland.....	480	Benin .....	565
Portugal .....	481	Cameroon .....	566
Republic of Moldova.....	474	Cyprus .....	566
Serbia .....	488	<b>C144</b>	
Ukraine.....	493	Algeria .....	449
<b>C131</b>		Antigua and Barbuda .....	449
Plurinational State of Bolivia .....	521	Burundi.....	450
Ukraine.....	525	Costa Rica.....	452
Zambia .....	527	Côte d'Ivoire .....	453
<b>C135</b>		Chile .....	450
Turkey.....	192	Djibouti.....	453
<b>C136</b>		Dominican Republic .....	454
Plurinational State of Bolivia .....	531	El Salvador .....	454
<b>C138</b>		Eswatini .....	456
Aruba (Netherlands).....	299	Grenada .....	457
Bolivarian Republic of Venezuela .....	345	Hong Kong Special Administrative Region (China).....	451
Djibouti .....	256		

Madagascar .....	457	Gabon .....	263
Malawi .....	458	Gambia .....	266
Serbia .....	459	Ghana .....	269
<b>C147</b>		Haiti .....	272
Dominica .....	571	Iraq .....	274
<b>C148</b>		Jamaica .....	277
San Marino .....	536	Kenya .....	280
<b>C149</b>		Lao People's Democratic Republic .....	280
El Salvador .....	600	Lebanon .....	283
<b>C151</b>		Madagascar .....	286
Antigua and Barbuda .....	49	Malawi .....	287
Botswana .....	78	Mauritania .....	290
Chad .....	97	Mexico .....	293
<b>C152</b>		Mongolia .....	297
Congo .....	577	Pakistan .....	302
Guinea .....	579	Papua New Guinea .....	305
<b>C154</b>		Paraguay .....	308
Argentina .....	51	Peru .....	309
<b>C155</b>		Philippines .....	312
China .....	533	Saint Vincent and the Grenadines .....	314
Turkey .....	537	Samoa .....	315
Uruguay .....	538	Senegal .....	318
<b>C156</b>		Somalia .....	322
General observation .....	357	Spain .....	323
Greece .....	395	Sri Lanka .....	326
Guinea .....	398	Sudan .....	328
Slovenia .....	434	Syrian Arab Republic .....	329
<b>C158</b>		Thailand .....	334
Cameroon .....	519	Togo .....	338
Papua New Guinea .....	519	Tunisia .....	339
<b>C159</b>		Turkmenistan .....	340
Nigeria .....	503	Uganda .....	341
<b>C160</b>		United Republic of Tanzania .....	332
San Marino .....	486	United States .....	342
<b>C161</b>		Uruguay .....	343
Turkey .....	537	Uzbekistan .....	344
Uruguay .....	538	Viet Nam .....	348
<b>C162</b>		Yemen .....	349
Plurinational State of Bolivia .....	531	Zambia .....	353
Uruguay .....	538	<b>C187</b>	
<b>C167</b>		Turkey .....	537
China .....	533	<b>C189</b>	
Turkey .....	537	Colombia .....	595
<b>C169</b>		Costa Rica .....	596
Brazil .....	584	Paraguay .....	602
Colombia .....	587	<b>Observations on serious failure to report</b>	
Honduras .....	589	Albania .....	39
Mexico .....	591	Angola .....	39
Plurinational State of Bolivia .....	583	Brunei Darussalam .....	39
<b>C172</b>		Congo .....	39
Spain .....	603	Djibouti .....	40
<b>C173</b>		Dominica .....	40
Ukraine .....	525	Equatorial Guinea .....	40
<b>C176</b>		Gabon .....	40
Turkey .....	537	Grenada .....	41
<b>C181</b>		Jamaica .....	41
Ethiopia .....	497	Republic of Maldives .....	41
<b>C182</b>		Romania .....	41
Bolivarian Republic of Venezuela .....	346	Saint Lucia .....	41
Congo .....	256	Sao Tome and Principe .....	42
Chad .....	255	Somalia .....	42
Djibouti .....	257	Timor-Leste .....	42

**Submission to the competent authorities**

Albania .....	607	Kuwait .....	613
Angola .....	607	Kyrgyzstan.....	613
Antigua and Barbuda.....	607	Lebanon .....	613
Azerbaijan .....	608	Liberia .....	614
Bahamas .....	608	Libya.....	614
Bahrain .....	608	Malawi.....	614
Belize .....	608	Malaysia .....	614
Brunei Darussalam .....	609	Malta.....	615
Central African Republic .....	609	Marshall Islands.....	615
Comoros .....	609	Mexico.....	615
Congo .....	609	Mozambique .....	615
Croatia .....	610	North Macedonia .....	615
Chad .....	609	Pakistan .....	615
Chile .....	609	Papua New Guinea .....	616
Democratic Republic of the Congo .....	610	Plurinational State of Bolivia.....	609
Dominica .....	610	Republic of Maldives.....	614
El Salvador .....	610	Republic of Moldova .....	615
Equatorial Guinea.....	610	Rwanda .....	616
Eswatini.....	611	Saint Kitts and Nevis .....	616
Fiji .....	611	Saint Lucia.....	616
Gabon.....	611	Saint Vincent and the Grenadines.....	616
Gambia .....	611	Samoa .....	617
Grenada .....	611	Seychelles .....	617
Guinea .....	611	Sierra Leone.....	617
Guinea-Bissau .....	611	Solomon Islands .....	617
Guyana .....	612	Somalia .....	617
Haiti.....	612	Syrian Arab Republic .....	618
Hungary.....	612	Timor-Leste .....	618
Iraq .....	612	Tuvalu.....	618
Islamic Republic of Iran .....	612	United Arab Emirates .....	618
Kazakhstan .....	613	Vanuatu .....	618
Kiribati .....	613	Yemen .....	619
		Zambia.....	619

## Index of comments by country

<b>Afghanistan</b>			
C100.....	361		
C111.....	362		
<b>Albania</b>			
C081.....	462		
C087.....	43		
C098.....	43		
C111.....	363		
C129.....	462		
Observations on serious failure to report .....	39		
Submission to the competent authorities.....	607		
<b>Algeria</b>			
C032.....	577		
C087.....	44		
C098.....	47		
C144.....	449		
<b>Angola</b>			
C098.....	48		
Observations on serious failure to report .....	39		
Submission to the competent authorities.....	607		
<b>Antigua and Barbuda</b>			
C100.....	363		
C111.....	364		
C144.....	449		
C151.....	49		
Submission to the competent authorities.....	607		
<b>Argentina</b>			
C087.....	49		
C154.....	51		
<b>Australia</b>			
C087.....	52		
C098.....	54		
C100.....	365		
C111.....	366		
<b>Azerbaijan</b>			
C098.....	54		
Submission to the competent authorities.....	608		
<b>Bahamas</b>			
C087.....	55		
C098.....	55		
Submission to the competent authorities.....	608		
<b>Bahrain</b>			
Submission to the competent authorities.....	608		
<b>Bangladesh</b>			
C081.....	464		
C087.....	56		
C098.....	62		
C100.....	368		
C111.....	369		
<b>Barbados</b>			
C087.....	66		
C097.....	565		
C098.....	67		
C100.....	372		
C111.....	372		
C118.....	541		
<b>Belarus</b>			
C087.....	67		
C098.....	70		
<b>Belize</b>			
C087.....	72		
C098.....	73		
C105.....	201		
C115.....	531		
Submission to the competent authorities .....	608		
<b>Benin</b>			
C087.....	73		
C111.....	373		
C143.....	565		
<b>Bolivia, Plurinational State of</b>			
C087.....	74		
C098.....	75		
C100.....	374		
C131.....	521		
C136.....	531		
C162.....	531		
C169.....	583		
Submission to the competent authorities .....	609		
<b>Bosnia and Herzegovina</b>			
C087.....	76		
<b>Botswana</b>			
C087.....	76		
C098.....	77		
C151.....	78		
<b>Brazil</b>			
C098.....	79		
C141.....	82		
C169.....	584		
<b>Brunei Darussalam</b>			
Observations on serious failure to report .....	39		
Submission to the competent authorities .....	609		
<b>Bulgaria</b>			
C087.....	83		
C098.....	84		
<b>Burkina Faso</b>			
C087.....	85		
C098.....	85		
<b>Burundi</b>			
C011.....	86		
C026.....	522		
C087.....	86		
C098.....	87		
C144.....	450		
<b>Cabo Verde</b>			
C100.....	374		
C111.....	376		
<b>Cambodia</b>			
C087.....	88		
C098.....	90		
<b>Cameroon</b>			
C087.....	92		
C098.....	93		
C100.....	376		
C111.....	377		
C143.....	566		
C158.....	519		

<b>Canada</b>			
C087 .....	94		
<b>Central African Republic</b>			
C087 .....	95		
C098 .....	96		
Submission to the competent authorities .....	609		
<b>Colombia</b>			
C087 .....	107		
C098 .....	112		
C169 .....	587		
C189 .....	595		
<b>Comoros</b>			
C026 .....	522		
C095 .....	522		
C098 .....	116		
C099 .....	522		
Submission to the competent authorities .....	609		
<b>Congo</b>			
C029 .....	202		
C081 .....	466		
C087 .....	116		
C100 .....	378		
C111 .....	378		
C152 .....	577		
C182 .....	256		
Observations on serious failure to report .....	39		
Submission to the competent authorities .....	609		
<b>Costa Rica</b>			
C087 .....	117		
C095 .....	523		
C098 .....	117		
C100 .....	379		
C144 .....	452		
C189 .....	596		
<b>Côte d'Ivoire</b>			
C144 .....	453		
<b>Croatia</b>			
C098 .....	119		
C111 .....	380		
Submission to the competent authorities .....	610		
<b>Cuba</b>			
C087 .....	120		
C100 .....	381		
C111 .....	382		
<b>Cyprus</b>			
C097 .....	566		
C111 .....	384		
C143 .....	566		
<b>Chad</b>			
C029 .....	201		
C087 .....	97		
C151 .....	97		
C182 .....	255		
Submission to the competent authorities .....	609		
<b>Chile</b>			
C024 .....	541		
C025 .....	541		
C087 .....	98		
C098 .....	100		
C144 .....	450		
Submission to the competent authorities .....	609		
<b>China</b>			
C155 .....	533		
C167 .....	533		
<b>Hong Kong Special Administrative Region (China)</b>			
C087 .....	102		
C098 .....	102		
C144 .....	451		
<b>Macau Special Administrative Region (China)</b>			
C087 .....	104		
C098 .....	105		
<b>Democratic Republic of the Congo</b>			
C087 .....	120		
C098 .....	121		
Submission to the competent authorities .....	610		
<b>Denmark</b>			
C098 .....	122		
<b>Djibouti</b>			
C019 .....	541		
C024 .....	542		
C026 .....	523		
C037 .....	542		
C038 .....	542		
C087 .....	122		
C095 .....	523		
C099 .....	523		
C122 .....	497		
C138 .....	256		
C144 .....	453		
C182 .....	257		
Observations on serious failure to report .....	40		
<b>Dominica</b>			
C029 .....	203		
C081 .....	466		
C094 .....	557		
C138 .....	258		
C147 .....	571		
Observations on serious failure to report .....	40		
Submission to the competent authorities .....	610		
<b>Dominican Republic</b>			
C019 .....	543		
C087 .....	123		
C098 .....	124		
C144 .....	454		
<b>Ecuador</b>			
C081 .....	467		
C087 .....	125		
C098 .....	126		
C110 .....	597		
<b>Egypt</b>			
C087 .....	127		
C098 .....	129		
<b>El Salvador</b>			
C087 .....	130		
C098 .....	131		
C100 .....	385		
C111 .....	386		
C144 .....	454		
C149 .....	600		
Submission to the competent authorities .....	610		

<b>Equatorial Guinea</b>			
C087.....	132		
C098.....	132		
C103.....	555		
C111.....	387		
Observations on serious failure to report .....	40		
Submission to the competent authorities.....	610		
<b>Eritrea</b>			
C087.....	133		
C098.....	134		
C105.....	203		
C111.....	388		
C138.....	259		
<b>Eswatini</b>			
C100.....	388		
C111.....	389		
C144.....	456		
Submission to the competent authorities.....	611		
<b>Ethiopia</b>			
C087.....	135		
C098.....	137		
C138.....	260		
C181.....	497		
<b>Fiji</b>			
C087.....	138		
C098.....	141		
Submission to the competent authorities.....	611		
<b>Gabon</b>			
C138.....	262		
C182.....	263		
Observations on serious failure to report .....	40		
Submission to the competent authorities.....	611		
<b>Gambia</b>			
C087.....	142		
C098.....	142		
C138.....	266		
C182.....	266		
Submission to the competent authorities.....	611		
C081.....	461		
C129.....	461		
<b>Ghana</b>			
C100.....	389		
C111.....	390		
C138.....	268		
C182.....	269		
<b>Greece</b>			
C042.....	543		
C100.....	391		
C111.....	392		
C156.....	395		
<b>Grenada</b>			
C081.....	467		
C144.....	457		
Observations on serious failure to report .....	41		
Submission to the competent authorities.....	611		
<b>Guatemala</b>			
C087.....	143		
C098.....	146		
C100.....	397		
C105.....	204		
<b>Guinea</b>			
C095.....	524		
C111.....	397		
C118.....	544		
C152.....	579		
C156.....	398		
Submission to the competent authorities.....	611		
<b>Guinea-Bissau</b>			
C026.....	524		
C098.....	149		
Submission to the competent authorities.....	611		
<b>Guyana</b>			
C098.....	150		
C100.....	398		
C111.....	399		
C138.....	271		
C139.....	535		
C140.....	513		
Submission to the competent authorities.....	612		
<b>Haiti</b>			
C012.....	544		
C017.....	544		
C024.....	544		
C025.....	544		
C042.....	544		
C087.....	151		
C098.....	151		
C182.....	272		
Submission to the competent authorities.....	612		
<b>Honduras</b>			
C042.....	546		
C081.....	468		
C087.....	152		
C100.....	401		
C169.....	589		
<b>Hungary</b>			
C017.....	546		
Submission to the competent authorities.....	612		
<b>India</b>			
C081.....	469		
C111.....	402		
<b>Iraq</b>			
C182.....	274		
Submission to the competent authorities.....	612		
<b>Islamic Republic of Iran</b>			
Submission to the competent authorities.....	612		
<b>Italy</b>			
C081.....	471		
C129.....	471		
<b>Jamaica</b>			
C100.....	403		
C105.....	205		
C117.....	557		
C138.....	276		
C182.....	277		
Observations on serious failure to report.....	41		
<b>Japan</b>			
C087.....	156		
<b>Jordan</b>			
C111.....	404		
<b>Kazakhstan</b>			
C087.....	159		
C105.....	206		
Submission to the competent authorities.....	613		

<b>Kenya</b>			
C105 .....	207		
C138 .....	279		
C182 .....	280		
<b>Kiribati</b>			
C105 .....	207		
Submission to the competent authorities .....	613		
<b>Korea, Republic of</b>			
C019 .....	547		
C081 .....	472		
C142 .....	513		
<b>Kuwait</b>			
Submission to the competent authorities .....	613		
<b>Kyrgyzstan</b>			
C087 .....	162		
Submission to the competent authorities .....	613		
<b>Lao People's Democratic Republic</b>			
C138 .....	280		
C182 .....	280		
<b>Lebanon</b>			
C017 .....	548		
C019 .....	548		
C029 .....	208		
C081 .....	473		
C100 .....	404		
C111 .....	405		
C115 .....	535		
C138 .....	282		
C182 .....	283		
Submission to the competent authorities .....	613		
<b>Liberia</b>			
C087 .....	163		
C098 .....	164		
C112 .....	573		
C113 .....	573		
C114 .....	573		
Submission to the competent authorities .....	614		
<b>Libya</b>			
C100 .....	406		
C111 .....	406		
C122 .....	498		
Submission to the competent authorities .....	614		
<b>Madagascar</b>			
C100 .....	407		
C105 .....	209		
C111 .....	407		
C122 .....	500		
C138 .....	285		
C144 .....	457		
C182 .....	286		
<b>Malawi</b>			
C111 .....	408		
C144 .....	458		
C182 .....	287		
Submission to the competent authorities .....	614		
<b>Malaysia</b>			
C100 .....	409		
Submission to the competent authorities .....	614		
<b>Malaysia–Peninsular Malaysia</b>			
C019 .....	549		
<b>Malaysia–Sarawak</b>			
C019 .....	549		
<b>Maldives, Republic of</b>			
Observations on serious failure to report .....	41		
Submission to the competent authorities .....	614		
<b>Malta</b>			
C081 .....	474		
C100 .....	410		
C111 .....	411		
C129 .....	474		
Submission to the competent authorities .....	615		
<b>Marshall Islands</b>			
Submission to the competent authorities .....	615		
<b>Mauritania</b>			
C029 .....	209		
C105 .....	212		
C138 .....	289		
C182 .....	290		
<b>Mexico</b>			
C029 .....	213		
C169 .....	591		
C182 .....	293		
Submission to the competent authorities .....	615		
<b>Moldova, Republic of</b>			
C081 .....	474		
C129 .....	474		
Submission to the competent authorities .....	615		
<b>Mongolia</b>			
C029 .....	216		
C100 .....	412		
C111 .....	412		
C138 .....	296		
C182 .....	297		
<b>Mozambique</b>			
C098 .....	165		
C105 .....	217		
C122 .....	501		
Submission to the competent authorities .....	615		
<b>Myanmar</b>			
C029 .....	217		
<b>Namibia</b>			
C138 .....	299		
<b>Nepal</b>			
C100 .....	413		
C111 .....	414		
<b>Netherlands</b>			
C142 .....	516		
<b>Netherlands–Aruba</b>			
C138 .....	299		
<b>New Zealand</b>			
C097 .....	567		
<b>Nicaragua</b>			
C100 .....	415		
C117 .....	558		
<b>Nigeria</b>			
C088 .....	502		
C100 .....	416		
C111 .....	417		
C159 .....	503		
<b>North Macedonia</b>			
C087 .....	165		
C098 .....	166		
C111 .....	419		
Submission to the competent authorities .....	615		

<b>Oman</b>			
C029.....	220		
C105.....	221		
<b>Pakistan</b>			
C029.....	221		
C081.....	478		
C105.....	223		
C138.....	300		
C182.....	302		
Submission to the competent authorities.....	615		
<b>Panama</b>			
C017.....	550		
C100.....	419		
C107.....	593		
<b>Papua New Guinea</b>			
C098.....	166		
C111.....	420		
C138.....	303		
C158.....	519		
C182.....	305		
Submission to the competent authorities.....	616		
<b>Paraguay</b>			
C117.....	560		
C122.....	504		
C138.....	306		
C182.....	308		
C189.....	602		
<b>Peru</b>			
C112.....	574		
C113.....	574		
C114.....	574		
C182.....	309		
<b>Philippines</b>			
C029.....	223		
C087.....	167		
C105.....	225		
C138.....	311		
C182.....	312		
<b>Poland</b>			
C029.....	226		
C081.....	480		
C111.....	421		
C129.....	480		
<b>Portugal</b>			
C081.....	481		
C129.....	481		
<b>Qatar</b>			
C029.....	227		
C081.....	482		
C105.....	230		
<b>Romania</b>			
C087.....	171		
C098.....	172		
Observations on serious failure to report.....	41		
<b>Russian Federation</b>			
C081.....	484		
<b>Rwanda</b>			
C026.....	524		
C087.....	174		
C098.....	175		
C100.....	423		
C105.....	231		
Submission to the competent authorities.....	616		
<b>Saint Kitts and Nevis</b>			
C098.....	176		
C100.....	423		
Submission to the competent authorities.....	616		
<b>Saint Lucia</b>			
C017.....	550		
C087.....	177		
C098.....	177		
C100.....	424		
Observations on serious failure to report.....	41		
Submission to the competent authorities.....	616		
<b>Saint Vincent and the Grenadines</b>			
C081.....	486		
C100.....	424		
C182.....	314		
Submission to the competent authorities.....	616		
<b>Samoa</b>			
C138.....	315		
C182.....	315		
Submission to the competent authorities.....	617		
<b>San Marino</b>			
C148.....	536		
C160.....	486		
<b>Sao Tome and Principe</b>			
C098.....	177		
C100.....	424		
C111.....	426		
Observations on serious failure to report.....	42		
<b>Saudi Arabia</b>			
C029.....	231		
C081.....	487		
C111.....	427		
C138.....	317		
<b>Senegal</b>			
C029.....	233		
C105.....	234		
C138.....	317		
C182.....	318		
<b>Serbia</b>			
C081.....	488		
C087.....	178		
C122.....	505		
C129.....	488		
C144.....	459		
<b>Seychelles</b>			
Submission to the competent authorities.....	617		
<b>Sierra Leone</b>			
C017.....	551		
C029.....	235		
C081.....	489		
C098.....	178		
C119.....	536		
C125.....	575		
C138.....	321		
Submission to the competent authorities.....	617		
<b>Singapore</b>			
C100.....	429		
<b>Slovakia</b>			
C100.....	430		
C111.....	431		

<b>Slovenia</b>		
C111 .....	432	
C156 .....	434	
<b>Solomon Islands</b>		
Submission to the competent authorities .....	617	
<b>Somalia</b>		
C087 .....	179	
C098 .....	179	
C182 .....	322	
Observations on serious failure to report .....	42	
Submission to the competent authorities .....	617	
<b>South Africa</b>		
C087 .....	180	
<b>Spain</b>		
C113 .....	575	
C114 .....	575	
C117 .....	562	
C122 .....	506	
C126 .....	575	
C172 .....	603	
C182 .....	323	
<b>Sri Lanka</b>		
C029 .....	235	
C081 .....	490	
C098 .....	181	
C138 .....	325	
C182 .....	326	
<b>Sudan</b>		
C029 .....	237	
C081 .....	491	
C098 .....	182	
C105 .....	237	
C138 .....	327	
C182 .....	328	
<b>Syrian Arab Republic</b>		
C029 .....	238	
C100 .....	435	
C105 .....	239	
C138 .....	329	
C182 .....	329	
Submission to the competent authorities .....	618	
<b>Tajikistan</b>		
C081 .....	492	
C111 .....	435	
C138 .....	331	
<b>Tanzania, United Republic of</b>		
C017 .....	551	
C019 .....	551	
C029 .....	239	
C100 .....	437	
C111 .....	437	
C138 .....	332	
C182 .....	332	
<b>Thailand</b>		
C019 .....	552	
C029 .....	239	
C105 .....	244	
C122 .....	509	
C138 .....	334	
C182 .....	334	
<b>Timor-Leste</b>		
Observations on serious failure to report .....	42	
Submission to the competent authorities .....	618	
<b>Togo</b>		
C105 .....	245	
C111 .....	439	
C138 .....	337	
C182 .....	338	
<b>Trinidad and Tobago</b>		
C087 .....	183	
C098 .....	184	
C100 .....	440	
C111 .....	441	
C125 .....	576	
<b>Tunisia</b>		
C182 .....	339	
<b>Turkey</b>		
C087 .....	185	
C098 .....	188	
C100 .....	441	
C111 .....	442	
C115 .....	537	
C119 .....	537	
C127 .....	537	
C135 .....	192	
C155 .....	537	
C161 .....	537	
C167 .....	537	
C176 .....	537	
C187 .....	537	
<b>Turkmenistan</b>		
C105 .....	246	
C138 .....	340	
C182 .....	340	
<b>Tuvalu</b>		
Submission to the competent authorities .....	618	
<b>Uganda</b>		
C026 .....	525	
C081 .....	492	
C087 .....	194	
C098 .....	195	
C105 .....	248	
C138 .....	340	
C182 .....	341	
<b>Ukraine</b>		
C081 .....	493	
C095 .....	525	
C122 .....	511	
C129 .....	493	
C131 .....	525	
C173 .....	525	
<b>United Arab Emirates</b>		
C100 .....	445	
C111 .....	446	
Submission to the competent authorities .....	618	
<b>United Kingdom</b>		
C017 .....	552	
C081 .....	495	
C111 .....	446	
<b>United States</b>		
C182 .....	342	
<b>Uruguay</b>		
C098 .....	196	
C121 .....	553	

C155.....	538	C138.....	347
C161.....	538	C182.....	348
C162.....	538	<b>Yemen</b>	
C182.....	343	C138.....	348
<b>Uzbekistan</b>		C182.....	349
C105.....	249	Submission to the competent authorities .....	619
C182.....	344	<b>Zambia</b>	
<b>Vanuatu</b>		C029.....	251
Submission to the competent authorities.....	618	C103.....	555
<b>Venezuela, Bolivarian Republic of</b>		C131.....	527
C026.....	527	C138.....	351
C095.....	527	C182.....	353
C138.....	345	Submission to the competent authorities .....	619
C182.....	346	<b>Zimbabwe</b>	
<b>Viet Nam</b>		C087.....	197
C029.....	251	C098.....	199



## 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.<sup>1</sup>

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),<sup>2</sup> 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 of the Governing Body. The Committee on Freedom of Association 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 government's comments 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 comments on the application of international labour standards directly to the Office. The Office will then forward these comments to the government concerned, which will have an opportunity to respond before the comments are examined by the Committee of Experts except in exceptional circumstances.<sup>3</sup>

<sup>1</sup> For detailed information on all the supervisory procedures, see the *Handbook of procedures relating to international labour Conventions and Recommendations*, International Labour Standards Department, International Labour Office, Geneva, Rev., 2012.

<sup>2</sup> Reports are requested every three years for the fundamental Conventions and governance Conventions, and from now on, every six years for other Conventions. In fact, at its 334th Session the Governing Body decided to expand the reporting cycle for the latter category of Conventions from five to six years (Document GB.334/INS/5). Reports are due for groups of Conventions according to subject matter.

<sup>3</sup> See paras 89–99 of the General Report.

## **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 resolution<sup>4</sup> 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 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,<sup>5</sup> 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;
- information and reports on the measures taken by member States in accordance with article 35 of the Constitution.<sup>6</sup>

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.<sup>7</sup> 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.<sup>8</sup> 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

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

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

<sup>6</sup> Article 35 covers the application of Conventions to non-metropolitan territories.

<sup>7</sup> See para. 36 of the General Report.

<sup>8</sup> See para. 65 of the General Report. Observations and direct requests are accessible through the NORMLEX database available at: [www.ilo.org/normes](http://www.ilo.org/normes).

Recommendations chosen by the Governing Body.<sup>9</sup> 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. This year's General Survey covers the Social Protection Floors Recommendation, 2012 (No. 202).

## 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))<sup>10</sup> 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)).

## 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 in June. Pursuant to article 7 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

<sup>9</sup> 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 context of the adoption of a five-year cycle of recurrent discussions by the Governing Body in November 2016. In the context of discussing measures to strengthen the supervisory system in November 2018, the Governing Body invited the Committee of Experts to make proposals on its possible contribution to optimizing the use made of article 19, paragraphs 5(e) and 6(d), of the Constitution, in particular by considering measures to improve the presentation of General Surveys, so as to ensure a user-friendly approach and format that maximizes their value for constituents (document GB.334/INS/5).

<sup>10</sup> 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.

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<sup>11</sup> 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.

### ***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.

---

<sup>11</sup> 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, 108th Session, Geneva, 2019.

---



***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 90th Session in Geneva from 20 November to 7 December 2019. The Committee has the honour to present its report to the Governing Body.

### **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 Lelio BENTES CORRÊA (Brazil), Mr James J. BRUDNEY (United States), Ms Graciela Josefina DIXON CATON (Panama), Mr Rachid FILALI MEKNASSI (Morocco), Mr Abdul G. KOROMA (Sierra Leone), Mr Alain LACABARATS (France), Ms Elena E. MACHULSKAYA (Russian Federation), Ms Karon MONAGHAN (United Kingdom), Mr Vitit MUNTARBHORN (Thailand), Ms Rosemary OWENS (Australia), Ms Mónica PINTO (Argentina), Mr Paul-Gérard POUGOUÉ (Cameroon), Mr Raymond RANJEVA (Madagascar), Ms Kamala SANKARAN (India), 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. During its session, the Committee functioned with a composition of 19 members and welcomed the renewal of the mandates of Ms Leila Azouri, Ms Graciela Josefina Dixon Caton, Mr Alain Lacabarats, Ms Mónica Pinto and Mr Raymond Ranjeva by the Governing Body at its 337th Session (October–November 2019).

4. This year, Ms Graciela Josephina Dixon Caton commenced her mandate as the new Chairperson of the Committee. Mr Vitit Muntarhorn was elected as Reporter.

### **Working methods**

5. Consideration of its working methods by the Committee of Experts has been an ongoing process since its establishment. In this process, the Committee has always given due consideration to the views expressed by the tripartite constituents. In recent years, in its reflection on possible improvements and the strengthening of its working methods, the Committee of Experts directed its efforts towards identifying ways to adapt its working methods so as to 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.

6. In order to guide the Committee's reflection on continuous improvement of its working methods, 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. This year, under the guidance of Mr Bentes Corrêa, who was elected as its Chairperson, the subcommittee on working methods met for the 19th time. The subcommittee on working methods focused its discussions on recent developments in relation to the Governing Body's discussions on the Standards Initiative. In particular, the subcommittee noted that following the decision taken by the Governing Body at its 331st Session (October–November 2017), the Office is in the process of implementing Information Technology (IT) enhancements which will introduce fully electronic working methods for the preparation, review, adoption and publication of the Committee's report. The new system will be fully implemented at the next session of the Committee of Experts. Its two main components are an electronic workflow and an electronic document repository. The subcommittee agreed that the introduction of electronic working methods generally is a very positive development. The new document and information

management system is likely to facilitate the experts' work, by streamlining the previously paper-based processes, improving document management and expanding the experts' ability to work remotely and collaborate online while preserving experts' access to paper documents as needed. The subcommittee noted that the features of the new system would lead to improved transparency on the treatment of the information submitted by the constituents. The subcommittee noted that until now, no information has been provided of decisions to make no comments on reports received and decided that such cases will be included in the NORMLEX database in the future in order to inform the government and the social partners that: "The Committee notes the information provided by the Government and has no matters to raise in this regard."

7. The subcommittee also discussed the initial results produced by its recent practice of sending urgent appeals where no reports have been received for at least three consecutive years. It recalled that it had introduced this practice in 2017 with regard to first reports which have not been received for three consecutive years. The subcommittee was pleased to note that the launching of urgent appeals has delivered good results with seven out of 14 first reports received by the Office. The subcommittee also recalled that it decided in 2018 to extend this procedure to all article 22 reports which have not been received for three consecutive years. The subcommittee expressed the hope that the new system will have an overall positive impact and will allow for an examination of all reports due, at least once in the six-year reporting cycle.

8. With regard to the practice of consolidated comments, the subcommittee noted the positive comments made at the Governing Body's 335th Session (March 2019) during the discussion on the Standards Initiative.<sup>1</sup> The subcommittee noted that the Office has continued the practice of consolidated comments and where appropriate, expanded it to additional thematic areas. The introduction of a new reporting cycle, based on a thematic grouping of instruments, is likely to facilitate this practice given that information on related subject matters will become available to the Committee at the same time, allowing for a more comprehensive examination of application of ratified Conventions in the same thematic grouping. It also reaffirmed the importance of General Surveys and consequently the need to allow sufficient time for their preparation and examination.

9. Finally, the subcommittee took note of the discussion which took place at the Conference Committee on the Application of Standards during the 108th Session of the International Labour Conference (2019) with regard to the transparency and clarity of comments and continued to take steps in this regard.

## ***Relations with the Conference Committee on the Application of Standards***

10. 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 Committee once again welcomed the participation of both its outgoing and incoming Chairpersons in the general discussion of the Committee on the Application of Standards at the 108th Session of the International Labour Conference (June 2019). It noted the decision by the Conference Committee to request the Director-General to renew this invitation to the Chairperson of the Committee of Experts for the 109th Session (May–June 2020) of the Conference. The Committee of Experts accepted this invitation.

11. 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.

12. The Chair welcomed the two Vice-Chairpersons and underlined the importance of collaboration between the two supervisory bodies based on mutual respect of their respective mandates and independence, in the interest of effectiveness of the supervisory system as a whole. On the occasion of the ILO's Centenary year, the two supervisory bodies had a historical opportunity to convey a positive message about the value of dialogue, taking into account the specific role of each body.

13. The Employer Vice-Chairperson said that the Centenary year is an opportunity to reflect on past achievements and on the way forward towards balanced supervision of international labour standards taking particular account of the Centenary Declaration. The functioning of the Committee on the Application of Standards as a permanent tripartite body of the International Labour Conference exercising supervisory functions has been a unique success providing a regular platform for dialogue on the application of ratified Conventions and other obligations. In delivering on this task, the Conference Committee receives the Committee of Experts' report as a starting point. The presence of the Committee of Experts' Chairperson in the Conference Committee is an opportunity for direct dialogue which is important not only for the

---

<sup>1</sup> GB.335/INS/PV.

constituents to understand their obligations but also for the experts to understand the realities and needs of the users of the supervisory system.

**14.** The supervisory system requires collaborative efforts and continuous reflection. The synergies between the two bodies when their recommendations are aligned has generated positive results more rapidly and with a long-lasting impact in the countries concerned. She emphasized that while the synergies and areas of convergence of views between the two supervisory bodies can result in real impact in member States, the converse is also true: divergences between the two bodies on issues underlying the interpretation of international labour standards can hinder long-lasting progress at national level.

**15.** The Employer Vice-Chairperson brought to the attention of the Committee of Experts the concerns expressed by some governments during the Conference Committee this year, which she understood to be calling for urgent and comprehensive reform of the supervisory system as a whole. She considered this as an important message from the constituents to which both Committees should listen in order to have a thorough and joint reflection. The facts underlying the Committee of Experts' assessments should be established faithfully in order to ensure a reasonably solid factual foundation. A strict and faithful assessment of compliance with ratified Conventions should adhere to the methods of interpretation of the Vienna Convention on the Law of Treaties.

**16.** With regard to calls for increased transparency, efficiency and tripartite governance in the Centenary Declaration, the Employer Vice-Chairperson presented a set of proposals aimed at making the Committee of Experts' report more reader-friendly, relevant and transparent. These include presenting the report by country rather than subject matter, or at least enabling a full review of pending comments per country electronically, making comments in a straightforward and simple language and focusing conclusions on concrete and verifiable recommendations. Moreover, she called on the experts to elaborate on the reasons why selected cases were double footnoted to enable the two Vice-Chairpersons who have been receiving many questions on this matter to respond appropriately. Hyperlinks should be made available in the electronic version of comments to facilitate access to related earlier comments by the experts and Conference Committee discussions so that the history of a case could be researched with more ease. In the vein of increasing transparency, it would also be helpful if the text of submissions by employers' and workers' organizations is made available via hyperlink in the electronic version of the experts' report in case the organizations concerned wish to make their submissions public.

**17.** Noting that the Committee of Experts always highlights cases of progress in its General Report, she considered that this was an important component to be included in the Conference Committee discussions each year. Highlighting certain cases of progress by selecting them for discussion at the Conference Committee would allow the latter to showcase good practice and successful efforts to comply with ratified Conventions.

**18.** The Employer Vice-Chairperson also emphasized that the Office played a central role in organizing the supervisory process as it addresses standards-related issues on a daily basis and maintains the institutional memory in this area beyond changes in the composition of the supervisory bodies. The tripartite constituents also provide important insights on the application of standards at national level and help devise solutions corresponding to national situations. It is therefore important for the supervisory bodies to ensure that their assessments are aligned and receptive to the views expressed by the constituents. In order to better reflect the notion that the application of standards requires collaborative engagement from all parties and is part of a comprehensive normative process, a better term for standards supervision would be "cooperation for the application of standards", or "standards compliance cooperation".

**19.** The promotion of an up-to-date and robust body of standards is also very important. As the Standards Review Mechanism Tripartite Working Group (SRM TWG) is advancing with its examination of international labour standards, a clear lesson learned is that the large number of existing standards could hinder focused priority setting by member States. While some steps have been taken to prioritize standards, for example by designating selected standards as fundamental or most significant from the viewpoint of governance or consolidating others, as in the case of the Maritime Labour Convention, 2006 (MLC, 2006, as amended), more action could be taken in this area.

**20.** The Employer Vice-Chairperson concluded by saying that the Centenary Declaration requires standards supervisory bodies to be balanced and flexible, to consider innovative thinking and new approaches, and to review methodologies so as to ensure that assessments and approaches continue to meet the changing realities in the world of work. It is time to seize this opportunity in order to ensure more transparency and balance in the supervisory system. The success of the supervisory mechanism requires collaborative efforts and continuous reflection by all actors with a view to avoiding future divergences. The alignment of assessments between the Committee of Experts and the Conference Committee could generate better results and responses from the national level. She invited both bodies to continue on a path of constructive dialogue.

**21.** The Worker Vice-Chairperson emphasized that the mandate of the Committee of Experts is to promote the application of existing standards in law and in practice. The Committee of Experts is an essential actor in ensuring that these standards do not go through a process of decline. Such a tendency could be observed in the acceptance, ratification and even the application of standards for a number of years. It is important to resist this tendency and emphasize the universality of

standards, which are applicable to countries at all levels of development. In his view, the term supervisory mechanism very well reflects the nature of the supervisory bodies, which is to ensure the application of standards. It is of fundamental importance to emphasize this mandate as reflected in the name of the mechanism.

**22.** The Worker Vice-Chairperson expressed appreciation for the quality of the work of the experts who carry out balanced analyses buttressed by the necessary factual and legal elements and deliver every year a very important contribution in their report for the selection and examination of cases by the Conference Committee. It is very important for the Conference Committee to continue to rely on high-quality observations. A necessary precondition for this is the independence of the Committee of Experts to which the Workers' group is fundamentally committed. While synergies are very important, they cannot be forced on the supervisory bodies. The Workers' group is generally in favour of complementarities while protecting the independence which is necessary for each body to accomplish its mandate. The responsibilities of each body should remain distinct and separate in a relationship of constructive coexistence. This is ever more important as the dialogue between supervisory bodies has been enhanced even further this year, with the participation of the Chairperson of the Committee on Freedom of Association (CFA) at the Conference Committee's session.

**23.** Ensuring conformity also involves a certain measure of interpretation of standards. The Committee of Experts is the guarantor that these inevitable and necessary interpretations remain coherent.

**24.** The Worker Vice-Chairperson drew attention to the slight reduction in the number of observations by employers' and workers' organizations under article 23 of the Constitution in recent years. He wondered whether this was due to a certain frustration on the part of the social partners given the length of the procedure and lack of knowledge thereof and the lack of visibility of the comments while waiting for their examination by the experts. The Workers' group has a role to play in building the capacities and sharing knowledge with workers' organizations at country level so that they can seize the opportunities offered by the supervisory system. The Committee of Experts needs to continue to rely on comments from the social partners as an important element ensuring the quality of its assessments.

**25.** The Worker Vice-Chairperson called for consideration to be given to new ways to rebuild a better articulation between the observations sent by the social partners and comments made by the experts. For instance, as the cycle for the examination of technical Conventions was extended, unlike the cycle for the fundamental Conventions, consideration should be given to according fundamental status to some technical Conventions as suggested by the Global Commission on the Future of Work with regard to three technical areas namely, adequate wages, limits on working time and protection of occupational safety and health.

**26.** Another point that is important for the social partners is to be able to find a reflection of their article 23 comments in the observations made by the Committee of Experts. When these comments are taken up in direct requests instead of observations, the organizations concerned cannot access the analysis of the Committee of Experts. It would therefore be important, if possible, to elaborate further on the criteria for identifying the subjects treated in each type of comment and clarify the distinction between observations and direct requests even further.

**27.** Selecting the list of cases to be discussed at the Conference has always been a challenge for each group both internally and vis-à-vis the other groups, including the governments of the countries selected for discussion. The latter have tended to be increasingly apprehensive over recent years, and this year expressed criticisms especially with regard to geographical imbalance in respect of a particular continent.

**28.** The Worker Vice-Chairperson also noted that all 24 cases selected for discussion at the Conference Committee raised serious application issues. While achievements in the application of certain aspects is to be acknowledged, as it demonstrated the value of the supervisory system, such improvements do not transform the case under discussion into a "case of progress" in its entirety.

**29.** The Workers' Vice-Chairperson concluded by saying that the Workers' group is there to drive workers' rights forward in a world of work undergoing profound transformations as described by the Global Commission in its report on the future of work. Challenges lie ahead as difficulties in the application of standards are likely to increase under the pressure of economic forces on the one hand and demands for social dialogue on the other. The Workers' group is ready to participate in the examination of these issues in a constructive spirit in the Conference Committee based on the important elements contained in the Committee of Experts' report.

**30.** The Committee of Experts expressed its appreciation for the participation of the two Vice-Chairpersons in the special sitting this Centenary year which was a key opportunity to look at the past and reflect about the future of the supervisory system and standards more generally.

**31.** The experts welcomed the statement that the work accomplished by the supervisory mechanism is one of the ILO's most important achievements in the first 100 years of its existence, as this long-term perspective transcends any recent difficulties. They observed that divergences between the two bodies are to some extent a natural consequence of their distinct mandates. The Committee of Experts is entrusted with reviewing the application of ratified Conventions both in law and in

practice and member States communicate information on national application which the Committee examines as part of its mandate.

32. The Experts clarified that their functions include monitoring with a view to maintaining coherence among standards and their application in different situations, legal examinations which result in concrete recommendations, and promotional work, for example when they recommend that an up-to-date Convention be considered for ratification or when they propose that a government avail itself of the technical assistance of the Office. The experts work both collectively through deliberations and individually carrying out examinations based on the preparatory work of the Office. Decisions are always taken collectively following a careful examination of the issues involved.

33. The experts took note of the comments made on the various criteria they use for distinguishing observations from direct requests and for inserting “double footnotes” in selected cases, and undertook to reflect on them further. They emphasized that the application of these long-standing criteria is not an exact science based on mathematical formulae. Their practice has been subject to constant refinement over the years following requests from the Governing Body and the constituents as the final recipients of comments. With regard to the criteria concerning “double footnotes” in particular, the experts provided examples of the ways in which these criteria are used in practice. With regard to observations by the social partners, the experts indicated that they were particularly conscious of the importance of tripartism and were also working within a specific framework set, among other things, by the report forms adopted by the Governing Body. When observations from the social partners are not sufficiently clear to be situated within this framework, it is not within the remit of the experts to ensure their examination and understandably, different supervisory bodies might have different assessments in this area.

34. The experts concluded by assuring the two Vice-Chairpersons that they will continue to reflect on their suggestions with a view to pursuing the development of positive synergies and points of encounter strengthening the relationship between the two supervisory bodies even further.

35. Information on the follow-up given by the Committee to the conclusions of the Conference Committee at its 108th Session (2019) is provided in paragraph 68 of this General Report.<sup>2</sup>

## **Mandate**

36. **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.**

## **Centenary round table on monitoring compliance with ILO standards: Significant achievements and opportunities ahead**

37. Within the framework of the ILO Centenary celebrations, a round table was organized on 28 November 2019 in order to highlight progress in terms of achieving better compliance with international labour standards and reflect on the future of the Committee of Experts’ work and its synergies with the Conference Committee on the Application of Standards. The round table was moderated by the Chairperson of the Committee of Experts, Ms Graciela Josefina Dixon Caton, and included a panel of esteemed speakers including, three former Chairpersons, Ms Robyn Layton, Ms Janice Bellace and Mr Abdul Koroma, as well as the Chairperson and the Employer and Worker Vice-Chairpersons of the Conference Committee, Mr Patrick Rochford, Ms Sonia Regenbogen and Mr Marc Leemans. The panel paid tribute to Mr Yozo Yokota, former Chairperson of the Committee of Experts, who passed away in June 2019.

<sup>2</sup> Moreover, updated information on the follow-up given by the secretariat to the conclusions of the Conference Committee can be found as of 1 April 2020, on the official website of the Conference Committee.

**38.** The discussion was opened by the ILO Director-General, Guy Ryder, who traced the history of the ILO and its supervisory system from 1919 to today's challenges. When the ILO was brought into existence, its founders recognized that rules were necessary to ensure that economic progress went hand in hand with social justice. The notion that an international body could establish and supervise rules for the world of work was at the time a wild dream which lived on and resulted in a long list of substantive contributions to social justice sometimes of truly historic proportions. Most importantly, this function remains a crucial one today as acknowledged in the Centenary Declaration on the Future of Work. The Director-General welcomed the adoption of a new Convention and Recommendation by the Centenary Conference and emphasized that beyond ratification, application remains crucial. Today's context of transformative change in the world of work combined with an increasing questioning of the role of international law is particularly challenging. Defending the principles for which the Organization has existed for a number of years requires the system to be robust. It should not be forgotten in this framework that tripartism is an integral aspect of the supervisory system's strengths.

**39.** The panellists addressed issues related to the synergies between the supervisory bodies and the positive impact that can be achieved over time, as well as the complementary nature of the respective bodies. They also referred to specific cases of progress, the positive contribution of the introduction of an Academy on international labour standards, the use of international labour standards by judges at national and regional levels and the impact of several recent instruments such as the MLC, 2006, and those related to social security and social protection.<sup>3</sup>

---

<sup>3</sup> A video recording of the round-table discussion is accessible at the following website: [https://www.ilo.org/global/standards/WCMS\\_726212/lang--en/index.htm](https://www.ilo.org/global/standards/WCMS_726212/lang--en/index.htm). In addition, former and current members of the Committee of Experts participated in a conference entitled "ILO100: Law for Social Justice" which took place at ILO headquarters in Geneva from 15 to 17 April 2019 and made contributions to a publication based on the conference proceedings: [https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/departments-and-offices/jur/law-for-social-justice/WCMS\\_730958/lang--en/index.htm](https://www.ilo.org/global/about-the-ilo/how-the-ilo-works/departments-and-offices/jur/law-for-social-justice/WCMS_730958/lang--en/index.htm).

## II. Compliance with standards-related obligations

### A. Reports on ratified Conventions (articles 22 and 35 of the Constitution and Compliance with article 23, paragraph 2, of the Constitution)

40. 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**

41. 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.

42. 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. Simplified reports are then requested on a regular basis.<sup>4</sup> 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 at six years for all other Conventions.

43. In addition, reports may be requested by the Committee outside of the regular reporting cycle.<sup>5</sup> Reports may also be expressly requested outside of the regular reporting cycle by the Conference Committee or the Governing Body. At each session, the Committee also has to examine reports requested in cases where a government had failed to send a report due for the previous period or to reply to the Committee's previous comments.

#### **Compliance with reporting obligations**

44. This year a total of 2,007 reports (1,788 reports under article 22 of the Constitution and 219 reports under article 35 of the Constitution) were requested from governments on the application of Conventions ratified by member States, compared to 1,790 reports last year.

45. The Committee observes that the proportion of reports received by 1 September 2019 remains low even though it increased in relation to previous years (795 reports representing 39.6 per cent of reports received, compared with 35.4 per

<sup>4</sup> 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 (document GB.334/INS/5).

<sup>5</sup> See para. 71 et seq. of the General Report.

cent at its previous session). The Committee recalls that at its previous session it decided to identify more clearly article 22 reports received after the 1 September deadline, the examination of which might be deferred due to their late arrival. This year, 624 out of 2,007 reports due (30.6 per cent) were received after this deadline. The significant number of reports received after 1 September seriously disturbs the sound operation of the supervisory mechanism. The examination of some of these files 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. *The Committee is therefore bound to reiterate its request that member States make a particular effort to ensure that their reports are submitted on time and in time next year and that they contain all the information requested so as to allow a complete examination by the Committee. It urges those member States who have received Office assistance in this regard, to make special efforts to ensure timely submission.*

46. At the end of the present session of the Committee, 1,419 reports were received by the Office corresponding to 70.7 per cent of the reports requested.<sup>6</sup> Last year, the Office received a total of 1,122 reports, representing 62.7 per cent. The Committee notes in particular that 45 of the 70 first reports due on the application of ratified Conventions were received by the time the Committee's session ended (last year, 52 of the 89 first reports due had been received).

47. When examining the failure by member States to respect their reporting obligations, the Committee adopts observations (contained at the beginning of Part II (section I) of this report). It makes these 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.

48. None of the reports due have been sent for the past two or more years from the following eight countries: **Brunei Darussalam, Congo, Djibouti, Dominica, Equatorial Guinea, Grenada, Saint Lucia and Sao Tome and Principe.** *The Committee urges the Governments concerned to make every effort to supply the reports requested on ratified Conventions.*

49. *In particular, the Committee draws the attention of the following Governments to the fact that if the reports 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: Brunei Darussalam, Dominica, Equatorial Guinea, Grenada and Saint Lucia.*

50. Ten countries have failed to supply a first report for two or more years:

State	Conventions Nos
Albania	– Since 2018: MLC, 2006
Angola	– Since 2018: Convention No. 188
Congo	– Since 2015: Convention No. 185, – Since 2016: MLC, 2006, and – Since 2018: Convention No. 188
Equatorial Guinea	– Since 1998: Conventions Nos 68 and 92
Gabon	– Since 2016: MLC, 2006
Jamaica	– Since 2018: Convention No. 189
Republic of Maldives	– Since 2016: MLC, 2006
Romania	– Since 2017: MLC, 2006
Somalia	– Since 2016: Convention No. 182
Timor-Leste	– Since 2018: Conventions Nos 100 and 111

51. *The Committee urges the Governments concerned to make a special effort to supply the first reports due.*

<sup>6</sup> 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.

52. *In particular, the Committee draws the attention of the following Governments to the fact that if the first report is not received in time for examination by the Committee at its next session, it may proceed to examine the application of the Convention in the countries concerned on the basis of public information at its disposal: Congo, Equatorial Guinea, Gabon, Republic of Maldives, Romania and Somalia.*

53. 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. *In such cases, it is important for governments to request assistance from the Office and for such assistance to be provided rapidly.*<sup>7</sup>

54. The following country has failed for the past three years, to indicate the representative organizations of employers and workers to which, in accordance with article 23, paragraph 2, of the Constitution, copies of the reports and information supplied to the Office under articles 19 and 22 of the Constitution have been communicated: **Lao People's Democratic Republic.**

55. Moreover, the Committee notes that this year the following countries also failed to provide information concerning communication of reports to workers' and employers' organizations in all or the majority of their reports: **Algeria, Plurinational State of Bolivia, Chad, Ecuador, Haiti, Honduras, Kenya, Kyrgyzstan, Malaysia (Sarawak), Republic of Moldova, Mozambique and Senegal.**

56. The Committee recalls that, in accordance with the tripartite nature of the ILO, compliance with this constitutional obligation is intended to enable representative organizations of employers and workers to participate fully in supervision of the application of international labour standards.<sup>8</sup> If a government fails to comply with this obligation, these organizations are denied their opportunity to comment and an essential element of tripartism is lost. *The Committee calls on the member States concerned to discharge their obligation under article 23, paragraph 2, of the Constitution.*

### **Replies to the comments of the Committee**

57. Governments are requested to reply in their reports to the observations and direct requests made by the Committee, and this year the majority of governments have provided the replies requested. In some cases, the reports received did not contain replies to the Committee's requests or were not accompanied by copies of the relevant legislation or other documentation necessary for their full examination. In such cases, the Office, as requested by the Committee, has written to the governments concerned asking them to supply the requested information or material, where this material was not otherwise available.

58. 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, Angola, Bahamas, Barbados, Belize, Brunei Darussalam, Burundi, Cameroon, Central African Republic, Comoros, Congo, Djibouti, Dominica, Equatorial Guinea, Eritrea, Grenada, Guinea, Guyana, Haiti, Lebanon, Liberia, Libya, Madagascar, Republic of Maldives, Mongolia, Netherlands (Aruba and Sint Marten), Nigeria, North Macedonia, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Sierra Leone, Solomon Islands, Sudan, Tajikistan, United Republic of Tanzania (Tanganyika and Zanzibar), Uganda and Viet Nam.**

59. 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 also draws the attention of governments to the revised criteria for the examination of repetitions where governments have failed to reply to the Committee's comments for three or more years. *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, where necessary.*

### **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**

60. 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

<sup>7</sup> In certain exceptional cases, the absence of reports is a result of more general difficulties related to the national situation, which prevents the provision of any technical assistance by the Office.

<sup>8</sup> See para. 89 et seq. of the General Report.

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.

61. The Committee was informed that, pursuant to the discussions of the Conference Committee in June 2019 and technical assistance provided by the Office,<sup>9</sup> seven out of 14 first reports on which urgent appeals had been issued were received.<sup>10</sup>

62. The Committee hopes that the Office will maintain the sustained technical assistance that it has been providing to member States in this respect. Finally, 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.

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

63. 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.

64. The Committee wishes to inform member States that it examined all reports that were brought to its attention. In view of the high number of reports received after the due date of 1 September, a number of reports could not be brought to the Committee's attention and will be examined at its next session.

### ***Observations and direct requests***

65. First of all, the Committee considers that it is worthy of note that in 122 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. 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.<sup>11</sup> 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.

66. This year the Committee made 602 observations and 1,387 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.

67. In addition, the Committee made two general observations on the Workers with Family Responsibilities Convention, 1981 (No. 156), and on the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).

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

68. The Committee examines the follow-up to the conclusions of the Committee on the Application of Standards. The corresponding information forms an integral part of the Committee's dialogue with the governments concerned. This

<sup>9</sup> See report of the Committee on the Application of Standards, International Labour Conference, 108th Session, Geneva, 2019, para. 298.

<sup>10</sup> Kiribati (Convention No. 185), Republic of Maldives (Conventions Nos 100 and 185), Nicaragua (MLC, 2006), Saint Vincent and the Grenadines ((MLC, 2006), and Somalia (Conventions Nos 87 and 98).

<sup>11</sup> Observations and direct requests are accessible through the NORMLEX database, on the ILO website ([www.ilo.org/normes](http://www.ilo.org/normes)).

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 (108th Session, June 2019) in the following cases:

List of cases in which the Committee has examined the <b>follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)</b>		
State	Conventions Nos	Page
Algeria	87	44
Plurinational State of Bolivia	131	521
Brazil	98	79
Egypt	87	127
El Salvador	144	454
Ethiopia	138	260
Fiji	87	138
Honduras	87	152
India	81	469
Iraq	182	274
Kazakhstan	87	159
Lao People's Democratic Republic	182	280
Libya	111	406
Myanmar	29	217
Nicaragua	117	558
Philippines	87	167
Serbia	81/129	488
Tajikistan	111	435
Turkey	87	185
Uruguay	98	196
Yemen	182	348
Zimbabwe	87	197

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

69. 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 <b>measures taken by governments to give effect to the recommendations of commissions of inquiry</b> (complaints under article 26)	
State	Conventions Nos
Belarus	87 and 98
Zimbabwe	87 and 98

List of cases in which the Committee has examined the <b>measures taken by governments to give effect to the recommendations of tripartite committees</b> (representations under article 24)	
State	Conventions Nos
Dominican Republic	19
France	106

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

70. 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 <b>follow-up given to legislative aspects referred to it by the Committee on Freedom of Association</b>		
State	Conventions Nos	Page Nos
Chile	87	98
Dominican Republic	98	123
El Salvador	98	130
Philippines	87	167
Turkey	98	188
Zimbabwe	87	197

### ***Special notes***

71. 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 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 May–June 2020.

72. 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.

73. 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.

74. 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.

75. 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.

76. This year, the Committee has requested governments to supply full particulars to the Conference at its next session in 2020 in the following cases:

Cases in which the Committee has requested the government to <b>supply full particulars to the Conference</b> at its next session in May–June 2020	
State	Convention No
Ghana	182

77. The Committee has requested governments to furnish detailed reports outside of the reporting cycle in the following cases:

List of the cases in which the Committee has requested <b>detailed reports outside of the reporting cycle</b>	
State	Conventions Nos
Congo	185 and MLC, 2006
Equatorial Guinea	68/92
Gabon	MLC, 2006
Republic of Maldives	MLC, 2006

78. 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 <b>full reply to its comments outside of the reporting cycle</b>	
State	Conventions Nos
Algeria	87
Australia	87
Bangladesh	81
Belarus	87
Plurinational State of Bolivia	131, 136/162 and 167

List of the cases in which the Committee has requested full reply to its comments outside of the reporting cycle	
State	Conventions Nos
Burundi	26
Chile	187
Colombia	87 and 98
Ecuador	87 and 98
Egypt	87
Estonia	MLC, 2006
France	87 and 98
Guinea-Bissau	26
Pakistan	81
Russian Federation	81
Rwanda	26
Senegal	182
Serbia	81/129
Thailand	MLC, 2006
Turkey	98 and 115/119/127/155/167/176/187
Ukraine	81/129 and 95/131/173
United Kingdom	81
Bolivarian Republic of Venezuela	26/95

### **Cases of progress**

79. 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.

80. 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.

81. Since first identifying cases of satisfaction in its report in 1964,<sup>12</sup> 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**

<sup>12</sup> See para. 16 of the report of the Committee of Experts submitted to the 48th Session (1964) of the International Labour Conference.

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.

82. Details concerning these cases of progress are found in Part II of this report and cover **32** instances in which measures of this kind have been taken in **25** countries. The full list is as follows:

List of the cases in which the Committee has been able to <b>express its satisfaction</b> at certain measures taken by the governments of the following countries	
State	Conventions Nos
Bangladesh	87
Botswana	87
Bulgaria	87
Canada	87
Colombia	98
Costa Rica	98
Djibouti	26/95/99
Ethiopia	87
Gabon	138 and 182
Greece	42 and 111
Guinea	95
Kiribati	105
Malawi	182
Malaysia-Malaysia Peninsular	19
Malaysia-Sarawak	19
Pakistan	138
Papua New Guinea	182
Qatar	29
Saudi Arabia	138
Thailand	19
Togo	111
Turkey	111
Turkmenistan	138
Uruguay	121 and 182
Uzbekistan	182
Zambia	103 and 131

83. 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 **3,109** since the Committee began listing them in its report.

84. Within cases of progress, the distinction between cases of satisfaction and cases of interest was formalized in 1979.<sup>13</sup> 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;
- 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.

85. 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 **94** instances in which measures of this kind have been adopted in **189** countries. The full list is as follows:

List of the cases in which the Committee has been able to <b>note with interest</b> certain measures taken by the governments of the following countries	
State	Conventions Nos
Antigua and Barbuda	MLC, 2006
Argentina	17, 144 and 177
Australia	87 and 111
Austria	135
Bangladesh	81, 87, 98 and 111
Belarus	98, 144 and 149
Belgium	156 and MLC, 2006
Plurinational State of Bolivia	189
Bosnia and Herzegovina	142
Brazil	81, 118 and 141
Bulgaria	144 and MLC, 2006
Burkina Faso	144
Cambodia	87
Chile	144
China	155
China-Hong Kong Special Administrative Region	98
Colombia	87, 98, 169 and 189
Costa Rica	87, 144 and 189
Côte d'Ivoire	26

<sup>13</sup> See para. 122 of the report of the Committee of Experts submitted to the 65th Session (1979) of the International Labour Conference.

List of the cases in which the Committee has been able to <b>note with interest</b> certain measures taken by the governments of the following countries	
State	Conventions Nos
Croatia	111 and 156
Cyprus	97, 111, 143 and 144
Czech Republic	142 and 154
Denmark	MLC, 2006
Denmark-Faroe Islands	MLC, 2006
Dominican Republic	144
Ecuador	81, 117 and 142
Egypt	87
El Salvador	87, 122, 144 and 149
Eswatini	111
Finland	MLC, 2006
France	81/129, 97 and MLC, 2006
France-French Polynesia	142
Germany	97 and MLC, 2006
Ghana	105
Greece	100, 111, 156 and MLC, 2006
Guatemala	29
Honduras	29, 81, 87 and 102
India	81, 142 and 144
Iraq	131
Ireland	29, 142 and 172
Italy	MLC, 2006
Kazakhstan	87
Kenya	144 and 149
Kiribati	29 and 100
Republic of Korea	187
Lao People's Democratic Republic	138
Latvia	81/129
Lesotho	144
Malawi	111
Malaysia-Malaysia Peninsular	19
Malaysia-Sarawak	19
Mexico	169 and 182
Mongolia	182
Montenegro	2, 81/129 and 162
Mozambique	144

List of the cases in which the Committee has been able to <b>note with interest</b> certain measures taken by the governments of the following countries	
State	Conventions Nos
Myanmar	26
Namibia	29 and 182
Nepal	100, 111 and 131
Netherlands	97 and MLC, 2006
Nicaragua	110
Niger	117
Nigeria	111
North Macedonia	98 and 122
Norway	MLC, 2006
Pakistan	29, 81, 138 and 182
Panama	12, 26, 107 and 138
Paraguay	189
Peru	102
Poland	81/129, 111 and MLC, 2006
Portugal	6, 97, 100, 111, 117, 142 and 156
Qatar	29 and 81
Russian Federation	MLC, 2006
Rwanda	98
Saint Kitts and Nevis	100
Sao Tome and Principe	81, 100 and 155
Saudi Arabia	111
Senegal	117 and 122
Seychelles	149
Singapore	29 and MLC, 2006
Slovenia	111, 122, 143 and 156
Somalia	87 and 98
South Africa	26
Spain	114
Sri Lanka	138
Sweden	MLC, 2006
Switzerland	189
Syrian Arab Republic	117
Thailand	122
Timor-Leste	182
Togo	81/129
Trinidad and Tobago	97 and 111

List of the cases in which the Committee has been able to <b>note with interest</b> certain measures taken by the governments of the following countries	
State	Conventions Nos
Turkmenistan	100 and 111
Ukraine	81/129
United Kingdom	111 and MLC, 2006
United Kingdom-Anguilla	85
United Kingdom-Isle of Man	MLC, 2006
Uruguay	103, 115, 118 and 121
Uzbekistan	29
Vanuatu	182
Zambia	81/129, 103, 117 and 122

### ***Practical application***

86. 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.

87. The Committee notes that approximately a quarter of the reports received this year contain information on the practical application of Conventions including information on national jurisprudence, statistics and labour inspection.

88. The Committee wishes to emphasize to governments the importance of submitting such information which is indispensable to complete the examination of national legislation and to help the Committee to identify the issues arising from real problems of application in practice. The Committee also wishes to encourage 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***

89. 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***

90. 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*

**91.** At its 88th Session, 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.

**92.** 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.

**93.** 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.

**94.** Where the observations on a technical Convention meet the criteria set out in paragraph 95 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.

**95.** 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.

**96.** 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 90 above, even in the absence of a reply from the government concerned.

**97.** 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.

**98.** The Committee notes that since its last session, it has received **915** observations (compared to 745 last year), **297** of which (compared to 173 last year) were communicated by employers' organizations and **618** (compared to 572 last year) by workers' organizations. The great majority of the observations received (**721** compared to 699 last year) related to the application of ratified Conventions; <sup>14</sup> **349** of these observations (compared to 367 last year) concerned the application of fundamental Conventions, **148** (compared to 84 last year) related to governance Conventions and **252** (compared to 248 last year) concerned the application of other Conventions. Moreover, **194** observations (compared to 46 last year) related to the General Survey on certain instruments related to the strategic objective of employment.

**99.** The Committee notes that, **498** of the observations received this year on the application of ratified Conventions were transmitted directly to the Office. In **223** 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

---

<sup>14</sup> See Appendix III to this report.

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**

**100.** 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 of the key dimensions of the ILO supervisory system. In this regard, the Committee welcomed the information provided by the Office that the ILO programme of work for 2020–21 provides that the Office will continue to support its constituents in addressing recommendations from the ILO supervisory bodies regarding the implementation of international labour standards. The Committee is appreciative of the Office's efforts to better link its technical assistance programme with the work of the supervisory bodies as a means to improve the application of international labour standards in law and in practice, including by allocating specific resources for this purpose. In the context of the 2030 Agenda and ongoing UN reform, the Committee underlines the importance of integrating international labour standards in the United Nations' Sustainable Development Cooperation Frameworks (UNSDCFs) and ILO Decent Work Country Programmes (DWCPs). **The Committee reiterates its hope that international labour standards will be increasingly integrated in comprehensive technical assistance and development cooperation programmes to help all constituents improve the application of international labour standards in both law and practice.**

**101.** 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 are highlighted in the following table and details can be found in Part II of this report.

List of the cases in which <b>technical assistance</b> would be particularly useful in helping member States	
<b>State</b>	<b>Conventions Nos</b>
Algeria	87 and 98
Antigua and Barbuda	100
Bangladesh	87, 100 and 111
Belarus	87 and 98
Plurinational State of Bolivia	87 and 98
Bosnia and Herzegovina	102/121
Botswana	87 and 98
Burkina Faso	98
Cabo Verde	87
Cambodia	87 and 98
Chile	24/25
Colombia	17, 87 and 98
Congo	185 and MLC, 2006
Costa Rica	87, 113 and 114
Croatia	98
Czech Republic	98
Dominican Republic	87 and 98
Ecuador	87 and 98
Egypt	87 and 107
El Salvador	87, 98 and 144
Equatorial Guinea	68 and 92

List of the cases in which <b>technical assistance</b> would be particularly useful in helping member States	
<b>State</b>	<b>Conventions Nos</b>
Eritrea	111
Ethiopia	87 and 98
Gabon	26/95/99 and MLC, 2006
Gambia	138
Guatemala	87 and 98
Guinea-Bissau	98
Honduras	87 and 100
Kyrgyzstan	87
Lebanon	17 and 174
Libya	111
Malaysia-Malaysia Peninsular	19
Malaysia-Sarawak	19
Malta	62
Republic of Moldova	92 and 133
Mozambique	98
Myanmar	MLC, 2006
Nepal	100
Niger	81/129
Palau	MLC, 2006
Panama	17 and 100
Philippines	87
Romania	98
Rwanda	26
Saint Kitts and Nevis	87 and 98
Serbia	81/129 and 131
Sierra Leone	87 and 98
Sri Lanka	98
Sudan	26/95
United Republic of Tanzania	100
Trinidad and Tobago	98
Tunisia	107
Turkmenistan	105
Ukraine	81/129
United Kingdom-Anguilla	85
Uruguay	98
Zambia	17/18

## C. Reports under article 19 of the Constitution

**102.** 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 as a basis for the General Survey on the Employment Policy Convention, 1964 (No. 122), the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Home Work Convention, 1996 (No. 177), the Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168), the Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169), the Home Work Recommendation, 1996 (No. 184), the Employment Relationship Recommendation, 2006 (No. 198), and the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).<sup>15</sup> In accordance with the practice followed in previous years, the survey has been prepared on the basis of a preliminary examination by a working party comprising seven members of the Committee.

**103.** 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 **23** countries: **Angola, Bahamas, Belize, Chad, Congo, Dominica, Grenada, Guyana, Haiti, Liberia, Republic of Maldives, Marshall Islands, Papua New Guinea, Saint Lucia, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, South Sudan, Timor-Leste, Tonga, Tuvalu and Yemen.**

**104.** *The Committee once again urges governments to provide the reports requested so that its General Surveys can be as comprehensive as possible.*

## D. Collaboration with the United Nations

**105.** The Committee welcomes the United Nations General Assembly resolution<sup>16</sup> of 16 September 2019, which endorsed the ILO Centenary Declaration on the Future of Work and called on all UN bodies – programmes, specialized agencies, funds and financial institutions – to consider integrating the Declaration’s policy proposals into their work in consultation with employers’ and workers’ representatives.

**106.** The Committee also welcomes the Joint Statement on Freedom of Association, including the right to form and join trade unions, adopted by the Chairpersons of the United Nations (UN) Human Rights Committee (HRC) and the Committee on Economic, Social and Cultural Rights (CESCR) on 23 October 2019.<sup>17</sup> The two Committees, while welcoming the progress made in guaranteeing freedom of association in labour relations, refer to the challenges faced in its effective protection, including undue restrictions of the right of individuals to form and join trade unions, the right of unions to function freely, and the right to strike. The Committees highlight the fact that the right of each individual to freely associate with others is at the intersection between civil and political rights and economic, social and cultural rights.

**107.** The Committee expresses its appreciation for the long-standing history of engagement that the ILO has had with the UN and its human rights machinery in the field of freedom of association from the first stages of its elaboration of Convention No. 87. It recalls in this regard the agreement made in 1950 between the ILO and the UN Economic and Social Council (ECOSOC) for the establishment within the ILO mandate of a Fact-Finding and Conciliation Commission on Freedom of Association, which further led to the creation of the ILO Governing Body Committee on Freedom of Association (CFA), a unique tripartite machinery based on membership in the Organization rather than ratification of the relevant Conventions.

**108.** The important links between ILO instruments and UN human rights treaties in this area can be further observed in the 1970 International Labour Conference resolution on trade union rights and their relation to civil liberties as it recognizes that the rights conferred upon workers’ and employers’ organizations can only be based on respect for those civil liberties enunciated in particular in the Universal Declaration of Human Rights and in the International Covenant on Civil and Political Rights. The resolution further invites all ILO member States to ratify the two Covenants on civil and political and on economic, social and cultural rights.

**109.** The Committee is confident that concerted action on these areas of mutual interest is key to ensuring meaningful respect for these fundamental rights in law and in practice and welcomes further dialogue and cooperation to bolster efforts for the achievement of Sustainable Development Goal 8.

<sup>15</sup> See Report III(Part B), International Labour Conference, 108th Session, Geneva, 2019.

<sup>16</sup> Resolution A/73/L.117, 16 Sep. 2019.

<sup>17</sup> Document E/C.12/2019/3-CCPR/C/2019/1.

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

110. 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 Organisation:

- (a) information on measures taken to submit to the competent authorities the instruments adopted by the Conference from June 1970 (54th Session) to June 2017 (106th Session) (Conventions Nos 131 to 189, Recommendations Nos 135 to 205 and Protocols); and
- (b) replies to the observations and direct requests made by the Committee at its 89th Session (November–December 2018).

111. 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 with respect to the instruments adopted in earlier years and submitted to the competent authorities in 2019.

112. 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

113. 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). Subsequently, on 12 June 2015, the ILO launched the “50 for Freedom” campaign to promote the ratification and implementation of the Protocol. The Committee notes with *interest* that the Protocol of 2014 to the Forced Labour Convention, 1930, which entered into force on 9 November 2016, has now been ratified by the following 42 member States (twice as many as in 2018, when 21 States had ratified): **Argentina, Austria, Belgium, Bosnia and Herzegovina, Canada, Cyprus, Czech Republic, Côte d’Ivoire, Denmark, Djibouti, Estonia, Finland, France, Germany, Iceland, Ireland, Israel, Jamaica, Latvia, Lesotho, Madagascar, Malawi, Mali, Malta, Mauritania, Mozambique, Namibia, Netherlands, Niger, Norway, Panama, Poland, Russian Federation, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, United Kingdom, 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

114. 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) on 12 December 2016. The Committee notes that 94 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

115. 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 70 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 by the constitutional deadline and to report on any action taken with regard to this instrument.*

### **107th and 108th Sessions**

116. 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 these instruments to the competent authorities will end on 21 June 2020, and the 18-month period (in exceptional circumstances) will end on 21 December 2020. The Committee notes that four governments, **Azerbaijan, Cameroon, the Islamic Republic of Iran and Luxembourg**, have provided information on the submission of Convention No. 190 and Recommendation No. 206 to the competent national authorities. *The Committee welcomes the information provided to date and encourages all governments to submit Convention No. 190 and Recommendation No. 206 to their legislatures by the constitutional deadline and to report on any action taken with regard to this instrument.*

### **Cases of progress**

117. The Committee notes with *interest* the information provided by the governments of the following countries: **Afghanistan, Azerbaijan, Lesotho, Samoa and Trinidad and Tobago**. It welcomes the efforts made by these Governments in overcoming the significant delays in submission and taking important steps toward fulfilling their constitutional obligation to submit to their legislatures the instruments adopted by the Conference over a number of years.

### **Special problems**

118. 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 96th Session (2007) and concludes at the 106th Session (2017), 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.

119. The Committee notes that, at the closure of its 90th Session on 7 December 2019, the following **36** (38 in 2016, 31 in 2017 and 39 in 2018) member States were in the category of “serious failure to submit”: **Albania, Bahamas, Bahrain, Belize, Brunei Darussalam, Chile, Comoros, Congo, Croatia, Dominica, El Salvador, Equatorial Guinea, Fiji, Gabon, Grenada, Guinea-Bissau, Haiti, Kazakhstan, Kiribati, Kuwait, Kyrgyzstan, Liberia, Libya, Malaysia, Malta, Pakistan, Papua New Guinea, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Seychelles, Sierra Leone, Solomon Islands, Somalia, Syrian Arab Republic and Vanuatu.**

120. 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 108th Session of the Conference (June 2019), 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. Following the concerns raised by the Committee of Experts, the Conference Committee also expressed great 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.

121. 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. This notice also allows the governments to 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**

122. 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).

**123.** 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. 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.

\* \* \*

**124.** Enfin, la commission désire exprimer sa gratitude pour l'aide précieuse qui lui a été apportée, une fois de plus, par les fonctionnaires du Bureau, dont la compétence et le dévouement lui permettent d'accomplir une tâche complexe dans un délai limité.

Geneva, 7 December 2019

*(Signed)* Graciela Josefina Dixon Caton  
Chairperson

Vitit Muntarbhorn  
Reporter

## Appendix to the General Report

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

#### Mr Shinichi AGO (Japan)

Professor of Law, Director, Kyoto Museum for World Peace, Ritsumeikan University, Kyoto; former Professor of International Economic Laws and Dean of the Faculty of Law at Kyushu University; member of the Asian Society of International Law, the International Law Association and the International Society for Labour and Social Security Law; Judge, 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; Director of Research at the Doctoral School of Law of the Lebanese University; 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 Lelio BENTES CORRÊA (Brazil)

Judge at the Labour Superior Court (Tribunal Superior do Trabalho) of Brazil, former Labour Public Prosecutor of Brazil, LL.M of the University of Essex, United Kingdom; former member of the National Council of Justice of Brazil; Professor at the Instituto de Ensino Superior de Brasília; Professor at the National School for Labour Judges.

#### Mr James J. BRUDNEY (United States)

Professor of Law, Fordham University School of Law, New York, NY; Co-Chair of the Public Review Board of the United Automobile Workers Union of America (UAW); 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; Arbitrator at 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; member of the Higher Council of Education, Training and Scientific Research; consultant with national and international public bodies, including the World Bank, the United Nations Development Programme (UNDP), the Food and Agriculture Organization of the United Nations (FAO), and UNICEF; National Coordinator of the ILO project "Sustainable Development through the Global Compact" (2005–08).

**Mr Abdul G. KOROMA** (Sierra Leone)

Judge at the International Court of Justice (1994–2012); former President of the Henry Dunant Centre for Humanitarian Dialogue in Geneva; former member and Chairman of the International Law Commission; former Ambassador and Permanent Representative of Sierra Leone to the United Nations (New York) and former Ambassador Plenipotentiary to the European Union, Organisation of African Unity (OAU) and many countries.

**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.

**Ms Elena E. MACHULSKAYA** (Russian Federation)

Professor of Law, Department of Labour Law, Faculty of Law, Moscow State Lomonosov University; Professor of Law, Department of Civil Proceedings and Social Law, Russian State University of Oil and Gas; 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)

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; advisory positions include Special Adviser to the House of Commons Business, Innovation and Skills Committee for the inquiry on women in the workplace (2013–14); former Honorary Visiting Professor, Faculties of Laws, University College London.

**Mr Vitit MUNTARBHORN** (Thailand)

Professor Emeritus of Law, Chulalongkorn University, Thailand; KBE; former United Nations University Fellow at the Refugee Studies Programme, Oxford University; former United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography; former United Nations Special Rapporteur on the Situation of Human Rights in the Democratic People's Republic of Korea; former Chairperson of the United Nations Coordination Committee of Special Procedures; Chairperson of the United Nations Commission of Inquiry on the Ivory Coast (2011); former member, Advisory Board, United Nations Human Security Fund; a Commissioner of the United Nations Commission of Inquiry on the Syrian Arab Republic

(2012–16); recipient of the 2004 UNESCO Prize for Human Rights Education; former United Nations Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity; member of United Nations Secretary-General's Civil Society Advisory Board on prevention of sexual exploitation and abuse.

**Ms Rosemary OWENS** (Australia)

Professor Emerita of Law, Adelaide Law School, 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)

Mónica Pinto is Professor Emerita of International Law and Human Rights Law, and former Dean, University of Buenos Aires Law School. She is a member of the *Institut de droit international*. She is the President of the World Bank Administrative Tribunal and of the Inter-American Development Bank Administrative Tribunal; a member of the ICSID Panel of Conciliators and Arbitrators; of the Consolidated List of Arbitrators for the Settlement of Disputes According to the Protocol of Olivios, and Alternate Member of the Permanent Tribunal of Revision/TPR, both of Mercosur. She has appeared before different human rights bodies, arbitral tribunals and the International Court of Justice as a counsel, as an expert. She currently serves as an arbitrator. She has served in different capacities as human rights expert for the UN. She has been visiting professor of law at Columbia Law School, University of Paris I & II, University of Rouen. She has taught a course at The Hague Academy of International Law. She was distinguished with the Goler T. Butcher Medal and the Honorary Membership by the American Society of International Law and received *Honoris Causa* degrees from the Universities of Chile and La Plata. She is the author of some books and many articles.

**Mr Paul-Gérard POUGOUÉ** (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)

President of the Madagascar National Academy of Arts, Letters and Sciences; former member (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 other institutions; former 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, Faculty of Law, University of Delhi and former Vice-Chancellor, Tamil Nadu National Law University, Tiruchirappalli; Former 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; member, International Advisory Board, International Journal of Comparative Labour Law and Industrial Relations; member, Editorial Board, University of Oxford Human Rights Hub Journal; 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.

**Ms Deborah THOMAS-FELIX (Trinidad and Tobago)**

President of the Industrial Court of Trinidad and Tobago since 2011; Judge of the United Nations Appeals Tribunal since 2014; former President and 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 Fellow; Georgetown University Leadership Seminar Fellow; and Commonwealth Institute of Judicial Education Fellow.

**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 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

#### Albania

The Committee notes with *regret* that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2018, has not been received. None of the 15 reports requested this year have been received, on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. The Committee expresses the hope that 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.

#### Angola

The Committee notes with *regret* that the first report on the Work in Fishing Convention, 2007 (No. 188), due since 2018, has not been received. None of the seven reports requested this year have been received, on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. The Committee expresses the hope 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.

#### Brunei Darussalam

The Committee notes with *concern* that, for the third year, the reports due on ratified Conventions have not been received. Two reports are now due on fundamental Conventions which should have included information in reply to the Committee's comments. In accordance with the decision it made concerning cases of serious failure where a government has not sent its reports on ratified Conventions for the third consecutive year (see paragraph 10 of its 2018 Report), the Committee launches an *urgent appeal* to the Government to send its reports concerning these fundamental Conventions without delay and advises the Government that, even in the absence of a report, the Committee may fully review the application of these fundamental Conventions at its next meeting on the basis of available information. The Committee expresses the hope 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.

#### Congo

The Committee notes with *concern* that the first report on the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), as amended, due since 2015, the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2016, and the report on the Work in Fishing Convention, 2007 (No. 188), due since 2018, have not been received. The Committee notes that, for the second year, the reports due on ratified Conventions have not been received. Fifteen reports are now due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. At its last session, the Committee had launched an *urgent appeal* to the Government to send its first reports concerning Convention No. 185 and the MLC, 2006, in accordance with the decision it

made concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraph 10 of its 2018 Report). The Committee decided, even in absence of these reports, to fully review the application of these Conventions on the basis of available information. The Committee also notes that the Government was invited to provide information to the Conference Committee on the Application of Standards during the discussion of the serious failure to fulfil reporting obligations, and indicated that, after the ILO technical assistance received in May 2018, the Government was making every possible effort to ensure the conformity with their constitutional obligations. The Committee expresses the hope 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.

## Djibouti

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 on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. The Committee hopes that the Government will soon submit all its reports in accordance with its constitutional obligation. Recalling that technical assistance was provided last year on these issues 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.

## Dominica

The Committee notes with *deep concern* that, for the seventh year, the reports due on ratified Conventions have not been received. Twenty-four reports are now due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its reports on ratified Conventions for the third consecutive year (see paragraph 10 of its 2018 Report), 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 a report, 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.

## Equatorial Guinea

The Committee notes with *deep concern* that, for the last 13 years, the reports due on ratified Conventions have not been received. Fourteen reports are now due on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments.

Of these 14 reports, two are first reports on the application of the Food and Catering (Ships' Crews) Convention, 1946 (No. 68), and the Accommodation of Crews Convention (Revised), 1949 (No. 92), due since 1998. At its last session, the Committee had launched an *urgent appeal* to the Government to send these first reports, in accordance with the decision it made concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraph 10 of its 2018 Report). The Committee decided, even in absence of these first reports, to fully review at this session the application of these two Conventions on the basis of available information.

With respect to the other 12 reports due, the Committee launches this year an *urgent appeal* to the Government to send these on time for examination at its next session. The Committee reminds the Government that even in the absence of these reports, the Committee may fully review at its next meeting the application of these Conventions on the basis of available information.

The Committee further notes that the Government was invited to provide information to the last session of the Conference Committee on the Application of Standards during the discussion of the serious failure to fulfil reporting obligations, and that the Government indicated that it was adopting measures to improve the situation. 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 provided by the Office in this regard.

## Gabon

The Committee notes with *concern* that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2016, has not been received. At its last session, the Committee had launched an *urgent appeal* to the Government to send its first report, in accordance with the decision it made concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraph 10 of its 2018 Report). The Committee decided, even in absence of this first report, to fully review at this session the application of this

Convention on the basis of available information. The Committee also notes that the Government was invited to provide information to the last session of the Conference Committee on the Application of Standards during the discussion of the serious failure to fulfil reporting obligations. 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 its first report in accordance with its constitutional obligation.

## Grenada

The Committee notes with *concern* that, for the third year, the reports due on ratified Conventions have not been received. Thirteen reports are now due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its reports on ratified Conventions for the third consecutive year (see paragraph 10 of its 2018 Report), 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 a report, the Committee may fully review the application of these Conventions at its next meeting on the basis of available information. Recalling that technical assistance was provided this year on these issues 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.

## Jamaica

The Committee notes with *regret* that the first report on the application of the Domestic Workers Convention, 2011 (No. 189), due since 2018, and the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due this year, have not been received. The Committee also notes that only nine of the 14 reports requested this year have been received. Five reports are still due on fundamental, governance and technical Conventions, most of which should have included information in reply to the Committee's comments. Recalling that technical assistance was provided this year on these issues by the International Training Centre of the ILO, the Committee expresses the hope that Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

## Republic of Maldives

The Committee notes with *concern* that the first report on the Maritime Labour Convention, 2006, as amended (MLC, 2006), due since 2016, has not been received. At its last session, the Committee had launched an *urgent appeal* to the Government to send its first report, in accordance with the decision it made concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraph 10 of its 2018 Report). The Committee decided, even in absence of this first report, to fully review at this session the application of this Convention on the basis of available information. The Committee also notes that the Government was invited to provide information to the last session of the Conference Committee on the Application of Standards during the discussion of the serious failure to fulfil reporting obligations. The Committee expresses the hope that the Government will soon submit its first report in accordance with its constitutional obligation.

## Romania

The Committee notes with *concern* that the first report on the Maritime Labour Convention, as amended (MLC, 2006), due since 2017, has not been received. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraph 10 of its 2018 Report), the Committee launches an *urgent appeal* to the Government to send its first report concerning the MLC, 2006, without delay, and advises the Government that, even in the absence of a report, the Committee may fully review the application of this Convention at its next meeting on the basis of available information. The Committee also notes that the Government was invited to provide information to the Conference Committee on the Application of Standards during the discussion of the serious failure to fulfil reporting obligations and that the Government has indicated that all missing information would be provided to the ILO before 1 September 2019. The Committee expresses the hope that the Government will soon submit its first report in accordance with its constitutional obligation.

## Saint Lucia

The Committee notes with *deep concern* that, for the last six years, the reports due on ratified Conventions have not been received. Twenty reports are now due on fundamental and technical Conventions, most of which should have included information in reply to the Committee's comments. In accordance with the decision it made last year concerning cases of serious failure where a government has not sent its reports on a ratified Convention for the third consecutive year (see paragraph 10 of its 2018 Report), the Committee launches an *urgent appeal* to the Government to send its reports without

delay. The Committee reminds the Government that even in the absence of these reports, the Committee may fully review at its next meeting the application of these Conventions 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.

## Sao Tome and Principe

The Committee notes with *regret* that, for the second year, the reports due on ratified Conventions have not been received. Eight reports are now due on fundamental, governance and technical Conventions, including the first report on the application of the Maternity Protection Convention, 2000 (No. 183). In addition, most of these reports should have included information in reply to the Committee's comments. Recalling that technical assistance was provided last year on these issues by the International Training Centre of the ILO, the Committee expresses the hope that that 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 *deep concern* that, for the 14th year, the reports due on ratified Conventions have not been received. Thirteen reports are now due on fundamental and technical Conventions, some of which should have included information in reply to the Committee's comments.

At its last session, the Committee had launched an *urgent appeal* to the Government to send its first report on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), due since 2016. In accordance with the decision it made concerning cases of serious failure where a government has not sent its first report on a ratified Convention for the third consecutive year (see paragraph 10 of its 2018 Report), the Committee decided, even in absence of this first report, to fully review at this session the application of this Convention on the basis of available information.

With respect to the other 12 reports due, the Committee launches this year an *urgent appeal* to the Government to send these on time for examination at its next session. The Committee reminds the Government that even in the absence of these reports, the Committee may fully review at its next session the application of these Conventions on the basis of available information.

The Committee further notes that the Government was invited to provide information to the last meeting of the Conference Committee on the Application of Standards during the discussion of the serious failure to fulfil reporting obligations. The Government indicated, after having received ILO technical assistance this year, that it was currently preparing the first reports due. The Committee welcomes the recent receipt of the first reports on the application 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), and firmly hopes that the Government will soon be in a position to submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

## Timor-Leste

The Committee notes with *regret* that the first reports on the application of the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), due since 2018, have not been received. The Committee also notes that only two of the six reports requested this year have been received. Four reports are still due on fundamental Conventions, some of which should have included information in reply to the Committee's comments. Recalling that technical assistance continues to be provided on these issues by the ILO Country Office for Indonesia, the Committee hopes that that Government will soon submit all its reports in accordance with its constitutional obligation and that they will respond to the Committee's comments.

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Afghanistan, Antigua and Barbuda, Bahamas, Barbados, Belgium, Belize, Burundi, Cameroon, Central African Republic, Eritrea, France: New Caledonia, Guinea, Guyana, Haiti, Lebanon, Liberia, Libya, Madagascar, Mongolia, Netherlands: Aruba, Netherlands: Sint Maarten, Nicaragua, Nigeria, North Macedonia, Papua New Guinea, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, San Marino, Sierra Leone, Solomon Islands, Sri Lanka, Sudan, Tajikistan, United Republic of Tanzania, United Republic of Tanzania: Tanganyika, United Republic of Tanzania: Zanzibar, Tunisia, Uganda, Vanuatu, Viet Nam, Yemen.*

## Freedom of association, collective bargaining, and industrial relations

### Albania

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, which allege violations of trade union rights in practice. *The Committee requests the Government to provide its comments in this respect.*

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 observations of the International Organisation of Employers (IOE) received on 1 September 2016, which are of a general nature.

*Article 2 of the Convention. Right to organize of foreign workers.* With reference to section 70 of the Act on Foreigners (No. 108 of 2013), providing that foreign workers with a permanent residence permit shall enjoy economic and social rights on the same terms as nationals, the Committee had requested the Government to take all necessary measures to ensure that all foreign workers, whether with a permanent or temporary residence permit or without residence permit, can exercise trade union rights. The Committee notes the Government's position that articles 16(1), 46(1) and 50 of the Constitution of the Republic of Albania fully guarantee the rights of foreigners in this regard and that the Act on Foreigners provides foreigners with protection against any form of discrimination. *The Committee requests the Government to confirm that all foreign workers, including those without a residence permit, may exercise trade union rights, and particularly the right to join organizations which defend their interests as workers. The Committee further requests the Government to provide information on foreign workers' exercise of this right in practice, and otherwise to take any necessary measures to ensure they can exercise these rights under the Convention.*

*Article 3. Right of organizations to organize their activities and formulate their programmes.* For a number of years, the Committee has been requesting the Government to take measures to: (i) amend section 197/7(4) of the Labour Code concerning sympathy strikes; and (ii) ensure that all public servants who do not exercise authority in the name of the State are able to exercise the right to strike.

The Committee notes with *satisfaction* that the Government informs that Act No. 136 of 5 December 2016 on some supplements and amendments to the Labour Code, amends article 197/7 to provide that sympathy strikes shall be lawful provided that it supports a legal strike.

The Committee further notes that the Government informs that Act No. 152/2013 on the civil servants provides for the right to join unions and professional associations and for the right to strike to civil servants except as otherwise provided by law. The Government indicates that in any case the right to strike is not permitted in relation to essential services of state activity. The Committee recalls in this regard that prohibitions to the right to strike, which curtail the right of unions to organize their activities to defend the interest of workers, may only be imposed in relation to public servants exercising authority in the name of the State, essential services in the strict sense of the term (the interruption of which would endanger the life, personal safety or health of the whole or part of the population) or in situations of acute national or local crisis (for a limited period of time and to the extent necessary to meet the requirements of the situation). The Committee observes that the list of essential services provided in article 35 of the Act on the civil servants includes services such as transport or public television, which may not be considered essential services in the strict sense of the term. *The Committee requests the Government to indicate any further exceptions to the right to strike set out in the laws and to take any necessary measures to ensure that the legislation is amended in accordance with the abovementioned principles.*

*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 the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, which allege violations of the Convention, in particular lack of adequate protection against anti-union discrimination and severe obstacles to collective bargaining. *The Committee requests the Government to provide its comments in this respect.*

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 of workers against acts of anti-union discrimination.* In its previous comments, the Committee, while noting the remedies provided for in cases of anti-union discrimination in sections 146(3), 202(1), 181(4) and 146(3) of the Labour Code (compensation; fine; prior union consent; reinstatement of public administration employees), had regretted that, in the absence of special tribunals, it allegedly took three years to review such cases in court. The Committee had urged the Government to take all necessary measures to establish appropriate enforcement mechanisms without further delay and had requested information on the status of the legal initiative concerning arbitration. The Committee notes that the Government indicates that the Ministry of Justice is examining this issue and that a draft law on international arbitration is currently under consideration. *Recalling that the existence of general legal provisions prohibiting acts of anti-union discrimination is insufficient unless they are accompanied by effective and rapid procedures to ensure their application in practice, the Committee urges the Government to take all necessary measures to ensure the expeditious set up and operation of adequate enforcement mechanisms. The Committee requests the Government to inform of any development in this regard and to provide detailed information on*

*the practical application of the remedies for anti-union discrimination set out in the law, in particular the availability and use of any applicable enforcement mechanisms, such as labour courts, and the duration of proceedings.*

*Article 4. Promotion of collective bargaining.* Noting in its previous comments that under section 161 of the Labour Code, collective agreements may be concluded at enterprise or branch level, and that according to the Government no collective agreements at national level had yet been concluded, the Committee had asked the Government to pursue its efforts to make bargaining possible at the national level in conformity with the national law and practice, in particular by mobilizing tripartite forums such as the National Labour Council (NLC). The Committee notes that the Government states that promotion of collective agreements is a priority and that, in this context, a number of measures have been taken to improve the legal framework, including Act No. 136 of 5 December 2015 on some supplements and amendments to the Labour Code. However, the Government notes that further work and continued efforts are still needed to foster collective bargaining at all levels, including the national level. *The Committee invites the Government to pursue its efforts to promote voluntary collective bargaining at all levels, including at national level, when the parties so desire, and recalls that it may avail itself of the technical assistance of the Office. The Committee requests the Government to provide information on any measures taken and their impact on the promotion of collective bargaining, as well as on the number of collective agreements concluded, specifying the level and percentage or number of workers covered.*

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

## Algeria

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

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, relating to legislative matters, most of which are already being examined by the Committee, and denouncing the persistence of violations of the Convention in practice. In particular, the ITUC alleges that the authorities are still making use of discretionary power to refuse the registration of certain unions. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 30 August and 1 September 2019, containing the Employers' statements made before the 2019 Committee on the Application of Standards of the International Labour Conference. The Committee notes the observations of the Trade Union Confederation of Productive Workers (COSYFOP), received on 28 August, 11 October and 13 November 2019 concerning serious obstacles to its freedom to organize its activities and making proposals for the current legislative reform in relation to the application of the Convention. *The Committee requests the Government to provide its comments in reply to the observations referred to above, including those dated 13 November 2019 of the COSYFOP concerning the difficulties encountered in establishing an affiliated union in an engineering and construction enterprise.*

The Committee notes that the high-level mission called for by the Commission on the Application of Standards in June 2018 visited Algiers in May 2019. The mission subsequently submitted a report containing its analysis of the pending issues relating to the application of the Convention, and made recommendations. The Committee notes that the acceptance of the mission and manner in which it took place are a positive signal of the will of the Government to make progress in addressing the issues that have been pending for many years. The Committee has benefited from the information gathered by the mission during the meetings that it held, and from its conclusions and recommendations, all of which contribute to a more empirical understanding of the legal and practical difficulties relating to the exercise of freedom of association in the country.

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussion in the Conference Committee in June 2019 concerning the application of the Convention by Algeria. The Committee observes that, although the Conference Committee noted positively that the Government had accepted a high-level mission, it nevertheless expressed concern at the persistence of restrictions on the right of workers to establish and join trade union organizations, federations and confederations of their own choosing and the continued absence of tangible progress in bringing the legislation into compliance with the Convention. In its conclusions, the Conference Committee urged the Government to: (i) ensure that the registration of trade unions in law and in practice is in compliance with the Convention; (ii) process pending applications for the registration of free and independent trade unions, which have met the requirements set out by the law, and allow the free formation and functioning of trade unions; (iii) review the decision to dissolve the Autonomous National Union of Electricity and Gas Workers (SNATEGS); (iv) systematically and promptly provide trade union organizations with all necessary and detailed information to enable them to take corrective action or complete additional formalities for their registration; (v) amend section 4 of Act No. 90-14 in order to remove obstacles to the establishment by workers of organizations, federations and confederations of their own choosing, irrespective of the sector to which they belong; (vi) amend section 6 of Act No. 90-14 in order to recognize the right of all workers, without distinction whatsoever, to establish trade unions; (vii) take all appropriate measures to guarantee that, irrespective of trade union affiliation, the right to freedom of association can be exercised in normal conditions with respect for civil liberties and in a climate free of violence, pressure and threats; (viii) ensure impartial investigation and due process rights in order to guarantee the rule of law; (ix) reinstate employees of the Government terminated based on anti-union discrimination, where appropriate; and (x) ensure that the new draft Labour Code is adopted with no further delay and is in compliance with the text of the Convention. The Committee notes that, as requested, the

Government subsequently provided in its report detailed information on the action taken on the recommendations of the Conference Committee.

### Legislative issues

*Amendment of the Act on the exercise of the right to organize and reform of the Labour Code.* The Committee recalls that the Government has been referring since 2011 to the process of reforming the Labour Code with a view to responding to the Committee's concerns relating to the application of the Convention. The Committee notes that the Government informed the high-level mission of its intention to take a new initiative to respond rapidly to the comments calling for the amendment of sections 2, 4 and 6 of Act No. 90-14 on the exercise of the right to organize. This new initiative would consist of, during a first stage, revising the provisions referred to above and disassociating these amendments from the broader process of the revision of the whole of the Labour Code, which would be carried out during a second phase. However, the consultation procedures and time schedule remained to be determined. After noting from the meetings with workers' and employers' organizations that no discussions or consultations on the draft Labour Code had been held since 2017, the mission recommended the Government to engage without delay in the preparation of draft texts to amend the provisions of Act No. 90-14, in accordance with the Committee's recommendations, and to pursue the work of bringing the draft Labour Code into conformity with the technical comments provided by the Office in 2015, all in consultation with all of the social partners. In June 2019, the Government confirmed to the Conference Committee that it wishes to update the text revising the Labour Code in light of the amendments proposed by the Office and in consultation with all the economic and social partners.

The Committee notes the Government's indication in its report that a preliminary draft Bill to amend and supplement Act No. 90-14 has been prepared and submitted for their views to 45 workers' and employers' organizations and 27 ministerial departments. According to the Government, this preliminary draft Bill amends all the provisions on which the Committee has been commenting. Furthermore, the Government refers to a new version of the Labour Code which includes the Office's 2015 comments. It indicates that the new text will be submitted for consultation with the economic and social partners and that the final version will then be submitted to the authorities with competence for its approval and enactment. The Committee welcomes the Government's indication that its comments have been taken into account in the text to amend Act No. 90-14 and that the new version of the draft text revising the Labour Code has taken into account the Office's technical comments. With regard to the amendments to Act No. 90-14, the Committee refers to its comments below. In relation to the Labour Code, the Committee refers to the comments contained in its direct request. ***Noting that the Government has not provided with its report a copy of either the draft Bill to amend Act No. 90-14 or the preliminary draft revision of the Labour Code, the Committee invites the Government to provide copies of these texts once they have been finalized and recalls in this regard the possibility for the Government to have recourse to the technical assistance of the Office. In general, the Committee trusts that the Government will take all the necessary measures to complete, without further delay, the legislative reform called for by the Committee with a view to giving full effect to the provisions of the Convention and that it will rapidly be in a position to report progress in this regard.***

*Article 2 of the Convention. Right to establish trade union organizations.* The Committee recalls that its previous comments related to section 6 of Act No. 90-14, which restricts the right to establish a trade union organization to persons who are originally of Algerian nationality or who acquired Algerian nationality at least ten years earlier. The Committee notes the Government's indication that the Bill includes an amendment to section 6 which removes the nationality requirement, which will permit foreign workers and employers to establish organizations and, under certain conditions, to become members of the executive and administrative bodies of trade unions. ***The Committee requests the Government to indicate the conditions set out in the draft revision relating to access to office in the executive and administrative bodies of trade unions.***

*Article 5. Right to establish federations and confederations.* The Committee recalls its previous comments relating to sections 2 and 4 of Act No. 90-14, which, read jointly, have the effect of restricting the establishment of federations and confederations in an occupation, branch or sector of activity. The Committee previously noted the Government's indication that section 4 of the Act would be amended to include a definition of federations and confederations. The Committee notes that, in its report, the Government merely indicates that the draft text revising Act No. 90-14 clarifies the concepts of central organizations, federations and confederations with a view to permitting their establishment irrespective of the sectors covered by their member unions. ***The Committee requests the Government to indicate the definitions set out in the draft text concerning central organizations, federations and confederations, and the provisions intended to remove any obstacles to the establishment of federations and confederations by workers' organizations, irrespective of their sector.***

*Article 3. Restrictions on access to trade union office.* Finally, the Committee notes the observation made by the high-level mission concerning the application of section 2 of Act No. 90-14, which could in practice limit the full enjoyment and exercise of freedom of association. According to the mission, the use of the term "salaried employees" in section 2 of Act No. 90-14 could have the consequence in practice of limiting access to trade union office. The discussions held by the mission revealed that the dismissal of a trade union leader (or a founder member of an organization awaiting approval) in a specific enterprise or administrative body resulted in the loss of the status of salaried employee, and consequently *de jure* of the status of trade union officer under the terms of section 2 of Act No. 90-14. The mission observed that this situation was liable to prejudice the freedom of action of the organization and its right to elect its representatives in full freedom. In this regard, the Committee recalls that it considers that the requirement to belong to an occupation or to an enterprise in

order to be able to hold trade union office is a requirement that infringes the right of organizations to draw up their constitutions and to elect their representatives in full freedom. It prevents trade unions from being able to elect qualified persons (such as full-time union officers or pensioners) or deprives them of the experience of certain officers when they are unable to provide enough qualified persons from among their own ranks. There is also a real risk of interference by the employer through the dismissal of trade union officers, which deprives them of their trade union office (see the 2012 General Survey on the fundamental Conventions, paragraph 102). *In light of the above, the Committee requests the Government to consult the social partners urgently on the 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, 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 requests the Government to report any progress in this respect.*

### **Registration of trade unions in practice**

The Committee recalls that it has been commenting for many years on the issue of the particularly long delays, sometimes amounting to several years, in the processing of applications for the registration of trade unions or the refusal by the authorities to register certain independent trade unions without giving reasons.

The Committee notes that the Government informed the high-level mission, as well as the Conference Committee, of the recent initiative by the Ministry of Labour to update the files on the establishment of unions and to invite organizations which wish to register or for which the applications are under examination to meet with the Ministry to bring up to date the administrative documents, and particularly those relating to their occupational situation. According to the Government's report, this initiative resulted in the registration of 126 representative organizations (81 workers' organizations and 45 employers' organizations) by the month of October 2019.

The Committee also notes the following information provided by the Government concerning the registration of unions referred to in its previous comments: (i) the Autonomous National Union of Cleaning and Sanitation Workers (SNATNA) and the National Union of Mobilis Workers (SNTM) have been registered; (ii) the Autonomous Algerian Union of Transport Workers (SAATT) and the Autonomous Union of Attorneys of Algeria (SAAVA) have not yet taken responded to the communications from the Ministry requesting them to update their applications for registration; (iii) the Government has undertaken to provide information on developments in the processing of the application for the registration of the Higher Education Teachers Solidarity Union (SESS); (iv) the processing of the files for the establishment of the Autonomous National Union of Paper and Packaging Manufacture and Transformation Workers (SNATFTPE), the Autonomous National Union of Wood and Derivative Manufacturing Workers (SNATMBD) and the Autonomous National Union of EUREST Workers of Algeria (SNATE) are the territorial responsibility of the wilaya or commune. The organizations have been informed accordingly; (v) the file for the establishment of the Algerian Union of Employees of the Public Administration (SAFAP) is pending due to a dispute concerning a disagreement between the founding members relating to the presidency of the organization; (vi) the General and Autonomous Confederation of Workers of Algeria (CGATA) has not provided documents concerning its establishment in accordance with the provisions of the Act as 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; and (vii) persons unrelated to the Trade Union Confederation of Productive Workers (COSYFOP) obtained possession of the registration receipt of the organization without the presence of any member or affiliate. However, the Government admits that the COSYFOP is composed of three legally constituted unions.

The Government adds that, to give effect to the recommendations of the Conference Committee, exchanges of communications and meetings with the representatives of unions seeking registration are now recorded in reports co-signed by the applicants. Finally, the Government indicates that it is currently engaged in the preparation of a manual on the procedures for the registration of unions.

*The Committee appreciates the follow-up information provided by the Government and requests it to continue providing updated information on the processing of applications for the registration of trade unions.* The Committee refers below to the specific situation of certain unions.

The Committee notes the points indicated below that the high-level mission raised concerning the registration of unions and which it considers to be particularly pertinent. In the first place, the mission observed that the legislative provisions setting out the conditions for the establishment of federations and confederations of unions covering different sectors appear to be interpreted in an inconsistent and very restrictive manner according to the organizations concerned. The mission accordingly noted the case of a confederation that was not provided with a receipt on the grounds that it groups together affiliates from several sectors while, in another case, it noted the registration of an employers' organization in February 2019 which has affiliates from four different sectors. The mission was also informed of the case of a trade union confederation with affiliates in several sectors. The mission therefore recommended that the Government adopt a consistent position in practice and to accept the possibility for organizations to be composed of affiliates from different occupations, branches and sectors, in line with the Committee's comments concerning the application of sections 2 and 4 of Act No. 90-14. The mission also therefore requested that the Government register any organizations in this situation which apply for registration. The Committee also notes that the mission observed inconsistencies in the content of the communications denying registration. In most cases, the administration's communication merely indicates that "the application to certify the establishment of the organization does not

meet the conditions set out by Act No. 90-14 of 2 June 1990 on the exercise of the right to organize and it requests the applicant to abide by that Act”, without other comments. The mission therefore encouraged the Government to systematically and rapidly provide the organizations with all the necessary information to enable them to take corrective measures or to fulfil additional formalities for their registration.

In general, while welcoming the efforts made by the Government to clarify the manner in which the administration processes applications for the registration of unions, the Committee is nevertheless *concerned* by the fact that the registration of most of the federations and unions referred to in its comments, and particularly the CGATA, SESS, SAAVA and SATT, remain pending. The Committee also notes the explanations provided on the denial of registration by the administration for the Confederation of Algerian Unions (CSA), COSYFOP and SAFAP, the representatives of which were able to meet with the high-level mission. The Committee notes that, taking into account the information provided both by the organizations themselves and by the authorities, the mission recommended the Government to proceed on an urgent basis with the registration of the CGATA, CSA, SAFAP and SESS.

The Committee notes with *regret* that the Government confines itself essentially to providing the same explanations in its report that it had previously furnished on the rejection of the applications for registration in the case of the organizations referred to above, most of which are based on a reading of the legislative provisions which, as recalled above by the Committee, are not in conformity with the Convention. The Government should also take into account the process of the amendment of these provisions which it has commenced in order to give effect to the Convention. *The Committee therefore expects that the Government will take due account of the elements recalled above in reconsidering on an urgent basis the applications for the registration of the CGATA, CSA and COSYFOP. It also refers to the recommendations of the high-level mission and calls on the Government to register on an urgent basis the SAFAP and the SESS. It expects the Government to be able to report, without further delay, tangible progress in the positive processing of these applications for registration which, in certain cases, have been pending for several years. The Committee also once again encourages the Government to provide systematically and rapidly to the organizations for which registration is denied by the administration all the necessary information to enable them to take corrective measures and to fulfil the additional formalities required for their registration.*

With regard to the situation of the Autonomous National Union of Electricity and Gas Workers (SNATEGS), the observations of which, received in July 2018, reported numerous obstacles to its freedom to organize its activities, the Committee recalls that SNATEGS presented a complaint to the Committee on Freedom of Association, which in its recommendations called on the Government to ensure compliance with the provisions of the law to enable the union to exercise its activities and represent its members (Case No. 3210, 386th Report of the Committee on Freedom of Association). The Committee notes that the high-level mission gathered more recent information on the case from the Government and the representatives of the union and that the Committee on Freedom of Association will once again examine the substance of the case in light of the information received.

*In general, in view of the measures that it is taking to address the legal and practical issues raised in relation to the implementation of the Convention, the Committee trusts that the Government will avail itself of the technical assistance of the Office.*

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 2021.]*

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

*Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* The Committee notes the observations denouncing discrimination against trade union leaders and members, received between 2017 and 2019, from the following organizations: (i) the International Trade Union Confederation (ITUC) (received on 1 September 2017, 1 September 2018 and 1 September 2019); the Autonomous National Union of Electricity and Gas Workers (SNATEGS) (received on 5 July 2018); and (iii) the Trade Union Confederation of Productive Workers (COSYFOP) (received on 28 August and 13 November 2019). The Committee notes that this issue has also been addressed repeatedly by the Committee on the Application of Standards of the International Labour Conference (hereinafter the Conference Committee) during its discussion of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), (discussions held in June 2017, June 2018 and June 2019), which has consistently requested the Government to report on the situation of trade union leaders and members who have been the victims of anti-union dismissal. Finally, the Committee notes that the Committee on Freedom of Association has examined several cases relating to the harassment and dismissal of trade union leaders and members, as indicated in the observations of the trade union organizations. The Committee notes that, within the framework of the recommendations made by the Conference Committee in June 2018, a high-level mission visited Algiers in May 2019 and was able to gather information on the spot relating to the situation of the dismissed trade unionists. Finally, the Committee notes that the Government has regularly provided information in response to the observations received from the trade union organizations, as well as in response to the recommendations made by the Conference Committee.

The Committee recalls that in 2016 the ITUC and the General and Autonomous Confederation of Workers in Algeria (CGATA) provided observations on acts of anti-union discrimination against trade union leaders and the dismissal of trade

union members following social protests in enterprises in various sectors and in the public sector (justice, postal services, public health, the national water agency). In this regard, it notes the information provided by the Government on the measures taken for the reinstatement of the workers dismissed in the public administration. The Committee notes that certain trade union leaders have still not been reinstated, in certain cases despite court rulings in their favour. ***The Committee therefore requests the Government to ensure, on the one hand, the immediate implementation of all court decisions ordering the reinstatement of trade union leaders and trade unionists in the public administration and on the other hand, to continue to provide information on other dismissed trade union leaders and trade unionists whose situation has not yet been resolved.***

The Committee notes that the observations received from trade unions since 2017 relate largely to the mass dismissal of the members of SNATEGS by an enterprise in the gas sector and interference in the activities of the union. The Government has provided information on the situation of the dismissed trade unionists, recently reporting measures for the reinstatement of most of the workers concerned, situations that are in the process of being resolved and dismissals that have been confirmed on the grounds of serious faults in the case of certain workers. In this regard, the Committee recalls that SNATEGS has lodged a complaint with the Committee on Freedom of Association (CFA) which in its recommendations called on the Government to ensure compliance with the provisions of the law in order to allow the union to organize its activities and represent its members (Case No. 3210, 386th Report of the CFA, June 2018). The Committee notes that the high-level mission also gathered updated information on the spot concerning the case, both from the Government and from trade union representatives, and that the CFA will once again examine the substance of the case in light of the information received. ***The Committee trusts that the Government will take all the necessary measures to give effect without delay to the recommendations of the CFA and that it will report in particular on the situation of the trade union leaders of SNATEGS who have still not been reinstated.***

The Committee notes the observations of COSYFOP on acts of discrimination against its members since the recent renewal of its executive body. The Committee notes that in May 2019 the high-level mission met the representatives of COSYFOP, who provided information on the harassment of its leaders, and particularly Raouf Mellal, Ben Zein Slimane and Abdelkader Kouafi, and intimidation at work against Ms Haddad Racheda and Ms Sarah Ben Maich, which led to the latter giving up their trade union functions. The Committee also notes that Mr Mellal was subjected to physical violence during his detention as a result of his trade union activities and is regularly the subject of intimidation and abusive detention. The Committee notes that, in its most recent communication, COSYFOP denounces the mass dismissal of the leaders of the National Union of Workers of BATIMETAL, an affiliate of COSYFOP, and the threat by the enterprise not to reinstate them unless they leave the union. ***The Committee notes with concern the seriousness of certain of the allegations and urges the Government to take all the necessary measures to ensure that the competent authorities conduct the necessary investigations into acts of anti-union discrimination against the members of COSYFOP, and to take corrective measures without delay and impose adequate sanctions if violations are found to have occurred of the trade union rights set out in the Convention. The Committee urges the Government to provide its comments and detailed information on this subject.***

***Revision of the legislation.*** With regard, in general, to the need to provide adequate protection to trade union leaders and members against acts of anti-union discrimination, the Committee refers to the concerns expressed by the high-level mission concerning delays in complying with court rulings ordering the reinstatement of trade union leaders, which have still not been given effect, and the excessive use of judicial action in relation to the respective procedures. The Committee also notes that the high-level mission identified difficulties in the application of *Article 1* of the Convention to the founding members of unions. According to the high-level mission, under the current legislation and procedures, it would be possible for an employer to dismiss the founding members of a union during the period when it was applying for registration, which in practice can take several years, without the latter benefiting from the protection afforded by the legislation against anti-union discrimination. ***The Committee urges the Government to engage without delay, in consultation with the social partners, in an in-depth review of the whole of the legal framework and of practice in relation to protection against anti-union discrimination, with a view to the adoption of the necessary measures to ensure adequate protection to trade union leaders and members during the period when the union that has been established is applying for registration. It requests the Government to report any progress achieved in this respect, and trusts that the Government will avail itself of the technical assistance of the Office for this purpose.***

***Application of the Convention in practice.*** ***The Committee invites the Government to provide any available statistics on the number of collective agreements registered and, where possible, to indicate the sectors and number of workers covered.***

## Angola

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*** ***(ratification: 1976)***

The Committee notes the observations of the National Union of Angolan Workers (UNTA), received on 30 August 2019, in relation to the application of the Convention in law and in practice. ***The Committee requests the Government to provide its comments in this respect.***

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 National Trade Union of Teachers (SINPROF) and Education International (EI), received on 1 September 2017, alleging the existence of anti-union reprisals by the Government in several provinces of the country. The Committee notes the observations of the National Union of Angolan Workers–Trade Union Confederation (UNTA–CS), received in December 2016, on matters which have already been examined by the Committee. **The Committee requests the Government to reply to the observations of EI and SINPROF.**

*New General Labour Act.* The Committee takes due note of the new General Labour Act No. 7/2015, published on 15 June 2015, which repeals Act No. 2/00 of 11 February 2000.

*Article 4 of the Convention. Promotion of collective bargaining. Compulsory arbitration.* The Committee recalls that for several years it has been requesting the Government to take the necessary measures to amend sections 20 and 28 of Act No. 20-A/92 on the right to collective bargaining, which impose compulsory arbitration in terms contrary to the indications of the Committee. The Committee notes that section 273.2 of the new General Labour Act establishes that collective labour disputes shall be resolved through mediation, conciliation and voluntary arbitration, without prejudice to specific legislation, and also notes that section 293 establishes that collective labour disputes shall be settled preferably through voluntary arbitration. The Committee observes that the new General Labour Act repeals any provision contrary to it, and queries about the effect this general measure has on Act No. 20-A/92 concerning the right to collective bargaining, on which the Committee has commented. **The Committee requests the Government to clarify whether the new General Labour Act repeals sections 20 and 28 of Act No. 20-A/92, which impose compulsory arbitration on an array of non-essential services, or whether these sections are still in force. The Committee recalls 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.**

*Articles 4 and 6. Collective bargaining of civil servants not engaged in the administration of the State.* The Committee recalls that for several years it has been requesting the Government to take measures to ensure that the trade union organizations of civil servants who are not engaged in the administration of the State have the right to negotiate both wages and other terms and conditions of employment with their public employers. The Committee notes with *regret* that the Government has not provided information on this matter and that there have been no legislative changes in this respect. **Recalling that, under Articles 4 and 6 of the Convention, all civil servants other than those engaged in the administration of the State must be able to enjoy the right to collective bargaining, the Committee once again requests the Government to take the necessary measures to give effect to the aforementioned provisions 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.**

## Antigua and Barbuda

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

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

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

## Argentina

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

The Committee notes the observations of the Industrial Confederation of Argentina (UIA), with the support of the International Organization of Employers, received on 30 August 2019, welcoming the creation of the Social Dialogue Commission, and particularly its subcommission on specific cases. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, and of the General Confederation of Labour of the Argentine Republic (CGT RA) and the General Confederation of Workers of Argentina (CTA Autonomous), both received on 3 September 2019, and of the Confederation of Workers of Argentina (CTA Workers), received on 10 September 2019. The Committee notes that some of the matters raised by the social partners are the subject of cases that are before the Committee on Freedom of Association (among others, Cases Nos 3229, 3257, 3272 and 3315). The Committee notes that the other observations relate to matters already raised, such as allegations of police repression and restrictions on the exercise of the right to strike and other violations of the Convention. **The Committee hopes that the matters raised will be examined and addressed in a tripartite manner within the framework of the Social Dialogue Commission.**

With regard to, and following up the matters raised in 2018, the Committee welcomes the information provided by the Government on the establishment and operation of the Social Dialogue Commission through Decision No. 225/2019. The Committee notes in particular: (i) its functions, including acting as an intermediary with the social partners to improve compliance with ratified Conventions; (ii) the creation of two subcommissions – one on labour standards (for the examination of subjects related to regular reporting under articles 12, 29 and 23 of the ILO Constitution, as well as representations under article 24), and the other on specific cases (for the examination of complaints relating to freedom of association); and (iii) its initial activities (two plenary meetings, three meetings of the subcommission on standards and two of the subcommission on cases, which examined two cases that are before the Committee on Freedom of Association). ***The Committee encourages the Government to continue to reinforce this social dialogue body and requests it to continue providing information on developments in its work.***

*Articles 2, 3 and 6 of the Convention. Trade union independence and the principle of non-interference by the State.* The Committee recalls that for many years it has been requesting the Government to take measures to amend the following provisions of Act No. 23551 of 1998 on trade union associations (LAS) and of the corresponding implementing Decree No. 467/88, which are not in conformity with the Convention:

- *Trade union status:* (i) section 28 of the LAS, under which, in order to challenge an association’s status, the petitioning association must have a “considerably larger” membership; and section 21 of implementing Decree No. 467/88, which qualifies the term “considerably larger” by providing that the association claiming trade union status must have at least 10 per cent more dues-paying members than the organization that currently has the status; (ii) section 29 of the LAS, under which an enterprise trade union may be granted trade union status only when no other organization with trade union status exists in the geographical area, occupation or category; and (iii) section 30 of the LAS, under which, in order to be eligible for trade union status, unions representing a trade, occupation or category have to show that they have different interests from the existing trade union or federation, and that the latter’s status must not cover the workers concerned.
- *Benefits deriving from trade union status:* (i) section 38 of the LAS, under which the check-off of trade union dues is allowed only for associations with trade union status, and not for those that are merely registered; and (ii) sections 48 and 52 of the LAS, which afford special protection (trade union immunity) only to representatives of organizations that have trade union status.

The Committee has noted the rulings of the Supreme Court of Justice of the Nation and other national and provincial courts finding various provisions of the legislation referred to above unconstitutional, particularly with regard to trade union status and trade union protection. Similarly, the Committee welcomes a recent opinion of 27 August 2019 of the Public Prosecutor submitted to the Supreme Court of Justice indicating that the system of the check-off of trade union dues as set out in section 38 of the LAS is prejudicial to the freedom of association of organizations that are only registered and is therefore unconstitutional.

The Committee also notes that the CTA Autonomous and the CTA Workers once again emphasize the need to amend these provisions of the LAS, as well as sections 31(a) and 41(a), which are reported to have been found unconstitutional by the Supreme Court of Justice. The organizations denounce the lack of political will by the Government in this regard, indicating that it has not proposed any amendments to the LAS and has not supported any of the draft amendments that have been submitted for this purpose and that, although a standards subcommission has been established in the Social Dialogue Commission, the subject of the need to bring the national legislation into conformity with the Convention has not been included on its agenda. The Committee notes the Government’s indication that the reform of the labour legislation has undoubtedly not been raised for discussion in the Social Dialogue Commission because the social partners themselves have not secured the minimum level of agreement required.

***The Committee expresses the firm hope that all the necessary measures will be taken without further delay to bring the LAS and its implementing Decree into full conformity with the Convention. The Committee considers that structured tripartite dialogue in the Social Dialogue Commission should provide an appropriate forum to carry out an in-depth tripartite examination with a view to the preparation of draft amendments that take into account all of the matters raised. Recalling that it has been requesting the amendment of the legislation referred to above for over 20 years, and that many of the provisions concerned have been found to be unconstitutional in specific judicial procedures, the Committee hopes and expects that it will be able to note tangible progress in the near future.***

*Delays in procedures for the registration of trade unions and to obtain trade union status.* For many years, the Committee has been requesting the Government to take the necessary measures to avoid unjustified delays in procedures for the registration of trade unions or the granting of trade union status. The Committee notes that the ITUC, CTA Workers and CTA Autonomous once again denounce the persistence of delays and refusals by the administrative authorities to recognize trade union status and to simply register trade unions. They allege that, although the latter procedures should be completed within 90 days, the authorities paralyze the procedure for years or set out requirements not envisaged in the law, obliging the organizations concerned to operate without legal status. The organizations once again provide long lists of cases in which trade union registration has not been granted (alleging unresolved delays of up to 16 years) as well as cases of trade union status (including the applications by the Federation of Energy Workers of the Argentine Republic (FeTERA) and the CTA Workers, for which the initial applications were submitted 19 and 15 years ago, respectively), and they

denounce the fact that the Government has not taken any measures to resolve the situation. The Committee also notes the Government's indication that delays in the procedure for the registration of trade unions and the granting of trade union status are in the majority due to: (i) delays by the unions to comply with the requirements set out in the law; and (ii) the existence of pre-existing unions, which defend their position and lodge administrative and judicial appeals. The Committee recalls once again that such allegations of undue delays have been the subject of various cases brought before the Committee on Freedom of Association, both in recent complaints (Cases Nos 3331 and 3360) and more long-standing cases, and particularly the case relating to FeTERA, No. 2870, in which the Committee on Freedom of Association firmly urged the Government to take the necessary measures to grant the organization trade union status. ***The Committee once again firmly urges the Government to take the necessary measures to avoid unjustified delays or refusals in the procedures for the registration of trade unions or the granting of trade union status and to report any progress made in this respect. The Committee trusts that this issue will also be examined by the Social Dialogue Commission with a view to finding effective solutions which take into account the concerns of all the parties concerned.***

***Article 3. Right of trade unions to elect their representatives in full freedom and to organize their administration and activities.*** In its previous comments, the Committee noted the allegations made by workers' organizations concerning interference by the Government in trade union elections and delays in the registration of trade union officers. The Committee also noted with concern that some of these allegations had already been the subject of recommendations by the Committee on Freedom of Association (in particular, in Cases Nos 2865 and 2979). The CGT RA and the CTA Autonomous also referred to the publication of Provision No. 17-E/2017 by the National Directorate of Trade Union Associations, which ordered the exclusion from the trade union register of organizations that had not confirmed their operational activity within three years, in compliance with the periodic legal requirement set out in the LAS (the CTA Autonomous alleged that this Provision conferred immense discretionary power to sanction trade unions which were critical of the Government). The Committee welcomes the fact that Provision No. 17-E has been set aside by the governmental Decision No. 751/2019. The Committee also notes the Government's indication that: (i) the registration of officers is not subject to any time limits and the principal reason for delays is the submission of applications that are incomplete or lack documentation; and (ii) the procedure allows the examination of challenges to the electoral process, thereby guaranteeing the exercise of trade union democracy. The Committee also notes that the CTA Autonomous once again denounces: (a) interference with unions by the government authorities through the designation of delegates to assume administrative functions and to replace the representatives elected by the workers (although this has diminished over the past year, since December 2015, there has been interference of this type with 23 trade unions); and (b) the failure to issue, or delays in issuing, the accreditation of trade union officials, affecting their ability to avail themselves freely of the bank accounts of the unions and their capacity to operate, as well as other acts by the administrative authorities affecting the financing of unions, such as the failure to approve the document requiring the check-off of union dues. The Committee recalls once again the importance of ensuring non-interference by the administrative authorities in trade union elections and of avoiding undue delays in the accreditation of trade union officials, as well as ending any other interference that undermines the right of trade unions to elect their representatives in full freedom and to organize their administration and activities. ***In this regard, the Committee firmly hopes that the issues raised by the workers' organizations will be examined in the near future by the Social Dialogue Commission with a view to the adoption of appropriate measures, including at the legislative level where necessary, and it requests the Government to provide information on any developments in this respect.***

### **Collective Bargaining Convention, 1981 (No. 154) (ratification: 1993)**

The Committee notes the observations of the Industrial Confederation of Argentina (UIA), received on 30 August 2019. The Committee also notes the observations of the Argentine Federation of the Judiciary (FJA), received on 27 August 2019, as well as of the General Confederation of Labour of the Argentine Republic (CGT RA), received on 3 September 2019, and of the Confederation of Workers of Argentina (CTA Workers), received on 10 September 2019.

The Committee welcomes the creation of the Social Dialogue Committee and refers, in this respect, to its observation on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

***Article 5 of the Convention. Promotion of collective bargaining in the country.*** The Committee notes the detailed information provided by the Government concerning the collective bargaining situation in the country in 2017 (in which a total of 1,004 collective agreements and accords were signed, covering 4,180,000 workers) and 2018 (in which a total of 1,653 agreements and accords were signed, covering 4,300,000 workers).

***Collective bargaining of workers in the national judiciary.*** In its previous comments, the Committee urged the Government to take the necessary measures to guarantee the collective bargaining rights of workers in the national judiciary and the provinces. The Committee notes that, once again, the Government refers to the division of powers and recalls that the regulation of collective bargaining in the national judiciary falls within the exclusive competence of the Supreme Court and the legislative branch. The Government adds, in this respect, that two bills in that area had been submitted recently, which had lost parliamentary status without being addressed. Regarding the judiciaries of the different provinces, the Government indicates that progress has been made, reflected in intense bipartite negotiation activities, and indicates that collective bargaining is implemented in the Autonomous City of Buenos Aires, as well as in the provinces of Buenos Aires, Tucuman, Chaco, Rio Negro and Mendoza. The Committee also notes that the CGT RA states that the national judiciary continues to invoke its independence to evade the exercise of collective bargaining; and that the FJA reports that neither at the national level nor in 23 of the country's 28 provinces is the right of collective bargaining of workers in the judicial

system respected. The Committee also recalls that these inadequacies in the promotion of collective bargaining of workers in the national judiciary have been the subject of various cases before the Committee on Freedom of Association (for example, Cases Nos 3078 and 3220). *The Committee trusts that the Social Dialogue Committee will carry out an analysis of the necessary measures, adapted to national conditions, including legislation, which must be adopted to ensure the right to collective bargaining of workers in the national judiciary and in all the provinces of Argentina. The Committee encourages the Government to consider the possibility of inviting representatives of the judicial and legislative powers in question to engage with the Social Dialogue Committee for the purposes of this discussion. The Committee requests the Government to keep it informed of any developments in this respect.*

## Australia

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1973)**

The Committee takes note of the observations made by the International Trade Union Confederation (ITUC) received on 9 September 2019 in relation to the application of the Convention in law and in practice. *It requests the Government to provide its comments thereon.*

*Articles 2, 3 and 5 of the Convention. Right of workers to form and join organizations of their own choosing without previous authorization and of these organizations to elect their officers, freely organize their activities and formulate their programmes without undue interference.* The Committee notes that the ITUC expresses its deep and serious concern regarding the ongoing attempt by the Government to pass the Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019 into law. The ITUC considers these attempts as reckless and harmful to industrial relations and the protection of workers' rights and liberal democratic values in Australia. The ITUC contends that the Bill will violate Australia's international labour standards and human rights obligations, undermining, in particular, the right to freedom of association and effective recognition of collective bargaining and the right to freedom of expression for organised labour. According to the ITUC, the "Ensuring Integrity Bill" has introduced unprecedented measures for trade union governance and administration that threaten the effective functioning and very existence of unions in Australia without meaningful consultations with the unions. The Bill conflates the right to form or join unions to protect the social and economic interests of workers with the duties of officers of a corporation, leading to further conflation of the punishment arising from criminal conduct with breaches of civil duties and obligations arising from running a membership-based organization in the nature of a trade union. The measures introduced will seriously undermine the agency of workers' organizations, permit gross interference by public authorities and hostile persons, create uncertainty and instability in the administration and operation of the organizations and result in undermining the peace and stability required for a productive industrial relations landscape in Australia. The Committee considers that this communication received after the deadline in a reporting year falls within the exceptional cases for its consideration as it refers to legislative proposals where the Committee's comments may be of assistance in the country's further consideration of this proposed legislation (CEACR 2019 General Report, paragraph 95).

The ITUC enumerates four broad measures it considers to be contrary to the Convention: disqualification from office; cancellation of registration; administration of dysfunctional organisations; and a public interest test for amalgamations. As regards the first point, the ITUC refers to the proposed power for the State officials to seek to deny trade union officers their right to stand for office because they have committed civil offences, some of which may be unrelated to the capacity to properly perform trade union duties, or for having been held in contempt of court. According to the ITUC, this measure has the potential to destabilize trade union functionality with frivolous but debilitating court actions and thereby denying the union its autonomy and its members their primary responsibility to protect their own interest. The ITUC indicates that the Bill also proposes to grant power to apply to the Federal Court to cancel trade union registration on grounds such as: officers having acted in a conflict-of-interest situation; and officers managing the affairs of the organization in an oppressive, unfairly prejudicial or discriminatory manner against members, or acting contrary to the interest of the organization, or having a record of not complying with designated laws (with no limitation as to scope or reach or time covered by this compliance record). Also included in the grounds for requesting cancellation of registration is the organization of unprotected industrial action. The ITUC is deeply concerned that these measures impute individual responsibility and actions of officers and officials to the existence of the organization itself and mete out collective punishment by the cancellation or deregistration of the trade union organization and create a high risk of legal uncertainty. Similarly, the Bill grants powers to apply to the Federal Court for a declaration that the organisation is not functioning effectively, for which a number of measures including placing it under administration may be applied. The ITUC considers these measures to be intrusive and to pose a serious risk of interfering with, or imposing a chilling effect on, the free functioning of trade unions. The autonomy and independence of the union would be undermined to the extent that matters and concerns that would ordinarily be addressed through the normal democratic and accountable functioning of the membership would instead elicit a public takeover possibly instigated by hostile interests. Finally, the ITUC refers to the proposed public interest test for the amalgamation of unions. The Fair Work Commission (FWC) has to decide that an amalgamation is in the public interest before it can take effect. Those who can make submissions in this regard include the Commissioner, the Minister, any other organisation that represents industrial interests of employers or employees or may otherwise be affected by the amalgamation, other organisations not representing interests of employers or employees in the industry concerned, and any

other person of a sufficient interest in the amalgamation. The grounds for establishing public interest include record of compliance with law, the impact on employees and employers in the industry concerned and other matters which may be considered by the FWC. According to the ITUC, this represents an intrusive interference in trade union affairs and amounts to previous authorisation for trade union registration.

The Committee observes with *concern* the numerous proposals raised in the Bill which would broaden the possibilities of intervention in the internal functioning of workers' organizations. It recalls that it has always considered that the conviction for an act the nature of which is not such as to call into question the integrity of the person concerned and not such as to be prejudicial to the performance of trade union duties should not constitute grounds for disqualification from trade union office (see the 2012 General Survey on the fundamental Conventions, paragraph 106). Moreover, cancellation of trade union registration is an extreme measure affecting the entire trade union membership. Where there are individual acts that need to be sanctioned, measures taken should rather focus on those responsible and avoid undermining the rights and benefits of collective representation. Finally, the Committee recalls that the right of workers to establish organizations of their own choosing without previous authorization, enshrined in the Convention, includes the amalgamation of unions. ***In light of the seriousness of the matters raised, the Committee calls upon the Government to review the proposals in the Bill with the representative workers' and employers' organizations concerned so as to ensure that any measures adopted are in full conformity with the Convention. It requests the Government to keep it informed of the steps taken in this regard and any further developments.***

*Article 3. Right of organizations to freely organize their activities and to formulate their programmes.* In its previous comments, the Committee requested the Government to take all appropriate measures, in consultation with the social partners, to review: (i) the provisions of the Competition and Consumer Act prohibiting secondary boycotts; (ii) sections 423, 424 and 426 of the Fair Work Act (FWA) relating to suspension or termination of protected industrial action in specific circumstances; (iii) sections 30J and 30K of the Crimes Act prohibiting industrial action threatening trade or commerce with other countries or among states; and (iv) boycotts resulting in the obstruction or hindrance of the performance of services by the Government or the transport of goods or persons in international trade; and to provide detailed information on the application of these provisions in practice with a view to bringing them into full conformity with the Convention.

The Committee notes the Government's indication that it considers the current provisions dealing with industrial action to be necessary, reasonable and proportionate to support the objects of the FWA, which is to provide a balanced framework for cooperative and productive industrial relations that promotes national economic prosperity and social inclusion for all Australians. While protected industrial action is legitimate during bargaining for a proposed enterprise agreement, there may be cases where the impact of that action on the parties or on third parties is so severe that it is in the public interest, or even potentially the interests of those engaging in the action, that the industrial action cease, at least temporarily. The Government adds that a variety of factors must be taken into account when considering an application under section 423 of the FWA and that such applications are rare, with two applications lodged in 2016–17 and one application lodged in 2017–18. As regards section 424, there have been relatively few applications with only nine in 2017–18, in contrast to 579 applications for a protected action ballot order during the same period. Finally, there were only two applications made under section 426 in 2017–18.

The Government indicates that no decisions were made under sections 423 and 426, while it provides some examples of decisions taken by the FWC under section 424 either to suspend or terminate protected industrial action or to refuse to issue such an order. Cases concerning the termination or suspension of industrial action included: (a) terminated action in an oil refinery that would cause significant damage to the Western Australian economy estimated at nearly AUD90 million per day as well as to the Australian economy as a whole; (b) suspension for two months of industrial action by employees of court security and custodial services where the action threatened to endanger the personal safety, health and welfare of part of the population; (c) the suspension in the form of an indefinite ban on a work stoppage in railway transport which threatened to endanger the welfare of a part of the population and threatened to cause significant damage to the Sydney economy; and (d) termination of industrial action affecting the Australian Border Force. An application requesting termination of industrial action in independent schools was however refused noting that, while the action was causing "inconvenience", it was "not as yet causing significant harm".

The Committee appreciates the information transmitted by the Government concerning the practical application of these provisions in the FWA. The Committee notes that some of the services concerned in the cases where industrial action was either suspended or terminated (such as border control, court security and custodial services) may be understood to be essential services in the strict sense of the term or public servants exercising activity in the name of the State where strike action may be restricted. The Committee recalls however that it does not consider oil refinery or railway transport to constitute services in which this right may be fully restricted, although the Government may consider the establishment of negotiated minimum services.

***Observing finally that there have been no changes to the provisions of the Competition and Consumer Act prohibiting secondary boycotts or to sections 30J and 30K of the Crimes Act, the Committee once again requests the Government, in light of its comments above and in consultation with the social partners, to review the above-mentioned provisions so as to ensure that they are not applied in a manner contrary to the right of workers' organizations to organize their activities and carry out their programmes in full freedom. It further requests the Government to continue providing detailed information on the application of these provisions in practice.***

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 2020.]*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1973)

*Article 4 of the Convention. Promotion of collective bargaining. Scope of collective bargaining. Fair Work Act (FWA).* In its previous comments, the Committee noted that sections 186(4), 194 and 470–475 of the FWA exclude from collective bargaining as “unlawful terms” any terms relating to the extension of unfair dismissal benefits to workers not yet employed for the statutory period, the provision of strike pay, the payment of bargaining fees to a trade union, and the creation of a union’s right to entry for compliance purposes more extensive than under the provisions of the FWA. It had observed the concerns expressed by the Australian Council of Trade Unions (ACTU) with respect to the restrictions in the FWA on the content of agreements and requested the Government to review these sections, in consultation with the social partners, so as to bring them into accordance with the Convention.

The Committee notes that the Government considers these provisions to be appropriate to Australia’s national conditions (as permitted by article 4) and that the formulation “matters pertaining to the employment relationship” in section 172(1) in relation to permissible content in enterprise agreements is a long-standing part of Australia’s industrial relations framework developed through extensive tripartite negotiation and consultation with the social partners, including the ACTU. The Government adds that the post-implementation review of the FWA by an independent expert panel (the Review Panel) was informed by submissions from various stakeholders (including the social partners) and supported the FWA content rules. Finally, the Government concludes that the current provisions dealing with permitted matters in enterprise agreements are necessary, reasonable and proportionate to support the objects of the FWA.

*Emphasizing that the measures adapted to the national conditions referred to in Article 4 of the Convention should aim to encourage and promote the full development and utilization of machinery for collective bargaining, and recalling that legislation or measures taken unilaterally by the authorities to restrict the scope of negotiable issues are often incompatible with the Convention, while tripartite discussions for the voluntary preparation of guidelines for collective bargaining are a particularly appropriate method of resolving such difficulties (see 2012 General Survey on the fundamental Conventions, paragraph 215), the Committee once again requests the Government to review the above-mentioned sections of the FWA, in consultation with the social partners, so as to leave the greatest possible autonomy to the parties in collective bargaining.*

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

## **Azerbaijan**

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1992)

*Article 4 of the Convention. Bipartite negotiations.* The Committee recalls that in its previous comments, it had noted that the legislation made a distinction between a “collective agreement”, concluded at the enterprise level following bipartite negotiations between workers and employers, and a “collective accord”, concluded at industry, territorial or national levels following bipartite (between trade unions and the authorities) or tripartite (between trade unions, employers’ organizations and the authorities of the appropriate level) negotiations (section 36(1) of the Labour Code (1999)). In this respect, it had requested the Government to take measures, including of a legislative nature, in order to encourage and promote collective bargaining between trade unions and employers and their organizations. The Committee notes the Government’s indication that the participation of state bodies in the conclusion of collective accords meets the principle of tripartism, reflected in numerous ILO decisions and documents as well as in international labour standards. While understanding that the aim of the arrangement is to ensure that the obligations undertaken by all parties under collective accords signed following tripartite negotiations are respected, the Committee recalls that *Article 4* of the Convention is aimed at promoting free and voluntary bargaining between workers’ organizations and employers or employers’ organizations. It considers that the principle of tripartism, which is particularly appropriate for the regulation of questions of a larger scope (drafting of legislation, formulating labour policies), should not replace the principle of autonomy of workers’ organizations and employers (or their organizations) in collective bargaining on conditions of employment. *The Committee therefore once again invites the Government, in consultation with the social partners, to take appropriate measures, including of a legislative nature, in order to encourage and promote collective bargaining between trade unions and employers and their organizations, without involvement of public authorities. It requests the Government to provide information on the measures taken in this regard.*

## Bahamas

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (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 received on 1 September 2014 and on 1 September 2016 from the International Organisation of Employers (IOE), which are of a general nature.

The Committee notes the Government's indication that the most recent amendment to the 2001 Industrial Relations Act (IRA) occurred in 2012. The Committee observes with *regret* that the Industrial Relations (Amendment) Act, 2012, did not address the concerns raised in its previous observation and notes the Government's statement that discussions to this end continue.

*Article 2 of the Convention. Right of workers and employers, without distinction whatsoever, to establish and join organizations.* The Committee had previously noted that the IRA does not apply to the prison service (section 3). In this respect, the Committee notes the Government's reference to the Correctional Officers (Code of Conduct) Rules 2014, which allowed for the establishment of the Bahamas Prison Officers Association (BPOA). *Noting the limited scope of sections 39 and 40 of the abovementioned Rules, the Committee requests the Government to specify the manner in which prison staff and the relevant organization(s) enjoy the rights and guarantees enshrined in the Convention.*

*Right of workers and employers to establish organizations without previous authorization.* In its previous comments, the Committee noted that, under section 8(1)(e) of the IRA, beyond consideration of the specific requirements for registration, the Registrar shall refuse to register a trade union if he/she considers that the union should not be registered. Moreover, according to section 1 of the Schedule of the IRA, in applying the rules for the registration of trade unions, the Registrar shall exercise his/her discretion. *The Committee requests the Government once again to take the necessary measures to review section 8(1)(e) of the IRA so as to limit the discretionary power conferred upon the Registrar in relation to the registration of trade unions or employers' organizations.*

*Article 3. Right of workers' and employers' organizations to draw up their constitutions and rules and to elect their representatives in full freedom.* In its previous comments, the Committee noted that section 20(2) of the IRA, under the terms of which a secret ballot for election or removal of trade union officers and for the amendment of the constitution of trade unions shall be held under the supervision of the Registrar or a designated officer, is contrary to the Convention. *The Committee once again expresses the hope that specific measures will be taken for the amendment of section 20(2) of the IRA with a view to ensuring that trade unions can conduct ballots without interference from the authorities.*

*Right of organizations freely to organize their activities and to formulate their programmes.* In its previous comments, the Committee had noted that, when a strike is organized or continued in violation of the provisions concerning trade dispute procedure, excessive sanctions, including imprisonment for up to two years are provided (sections 74(3), 75(3), 76(2)(b) and 77(2) of the IRA). The Committee recalls once again that no penal sanction should be imposed against a worker for having carried out a peaceful strike and that therefore measures of imprisonment should not be imposed on any account. Such sanctions could be envisaged only where, during a strike, violence against persons or property or other serious infringements of rights have been committed, and these sanctions are imposed pursuant to legislation punishing such acts. *Therefore, the Committee once again requests the Government to amend the abovementioned sections of the IRA to ensure that no penal sanctions may be imposed for having carried out a peaceful strike.*

*Article 5. Right to affiliate to an international federation or confederation.* The Committee had previously noted that, under the terms of section 39 of the IRA, it shall not be lawful for a trade union to be a member of any body constituted or organized outside the Bahamas without a licence from the minister, who has discretionary power in this regard. In this respect, the Committee notes the Government's indication that although the process requires ministerial approval, these approvals are generally granted and do not represent a challenge. *The Committee requests the Government to take measures to align national legislation with the current practice and repeal section 39 of the IRA in order to give full effect to the right of workers' and employers' organizations to affiliate with international organizations of workers and employers.*

*The Committee reminds the Government that, if it so wishes, it may avail itself of the technical assistance of the Office.*

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: 1976)**

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

The Committee welcomes the adoption of the National Tripartite Council Act, 2015, aimed at improving the collective bargaining machinery and efficiency of collective agreements, as well as the first meeting of the National Tripartite Council, in which the Government and the social partners discussed matters pertinent to the welfare of workers.

The Committee notes the Government's indication that the most recent amendment to the Industrial Relations Act (IRA) occurred in 2012, and observes with *regret* that it does not address the concerns raised in its previous observation.

*Article 2 of the Convention. Adequate protection against acts of interference.* In its previous comments, the Committee requested the Government to take the necessary measures for the adoption of legislative provisions to protect workers' and employers' organizations against acts of interference by each other or each other's agents, accompanied by effective and sufficiently dissuasive sanctions. The Committee notes that the Government merely reiterates that the IRA is designed to prevent the risk of interference and provide protection to workers and union organizations against such acts. *The Committee requests the Government to take the necessary measures to review the IRA with a view to giving effect to Article 2 of the Convention without further delay, and to provide information on any developments in this regard.*

*Article 4. Representativeness.* The Committee had previously commented on the requirement to represent 50 per cent of workers of the bargaining unit to be recognized for bargaining purposes (section 41 of the IRA). The Committee reiterates 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, jointly or separately, at least on behalf of their own members. ***The Committee requests the Government once again to take the necessary measures to review the IRA so as to bring it into line with the Convention.***

*Right of prison guards to bargain collectively.* In its previous comments, the Committee requested the Government to indicate whether the Bahamas Prison Officers Association (BPOA) enjoyed the collective bargaining rights under the Convention, and, if so, to provide a copy of a collective agreement to which this organization was a signatory or to indicate whether discussions or negotiations were under way. The Committee notes the Government's reference to the Correctional Officers (Code of Conduct) Rules, 2014, which allow the BPOA to make representations to the Commissioner of the Department of Correctional Services in matters relating to the conditions and welfare of officers as a group (sections 39–40). Noting that these provisions do not appear to provide collective bargaining rights to the BPOA, the Committee recalls that the right to bargain collectively also applies to prison staff, and that under this Convention the establishment of simple consultation procedures for public servants who are not engaged in the administration of the State is not sufficient. ***The Committee requests the Government to take the necessary measures, including legislative, to ensure that prison guards can fully enjoy the rights and guarantees set out in the Convention and provide information on any developments in this regard.***

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

## Bangladesh

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019 referring to matters addressed in this comment.

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-compliance by Bangladesh with this Convention, as well as the Labour Inspection Convention, 1947 (No. 81) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), submitted by several Workers' delegates to the 2019 International Labour Conference, was declared receivable and is pending before the Governing Body.

The Committee notes the 2018 amendment of the Bangladesh Labour Act, 2006 (BLA) and the adoption of the 2019 Export Processing Zones Labour Act (ELA).

*Civil liberties.* In its previous comments, the Committee expressed deep concern at the continued violence and intimidation of workers and urged the Government to provide information on the remaining specific allegations of violence and intimidation 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 further notes the Government's general statement that: any case of grave allegations of violence and intimidation is investigated by the Department of Police or the Ministry of Home Affairs; preventive measures have been put in place, including awareness-raising, training and seminars for police personnel on human and labour rights; and 29 committees have been formed in eight labour-intensive districts, comprised of officials from the Department of Labour (DOL) and the Department of Inspection for Factories and Establishments (DIFE), with the aim of ensuring peaceful and congenial working conditions in ready-made garment (RMG) factories through a number of concrete activities, such as resolving adverse situations in consultation with workers' and employers' representatives, publicizing the helpline introduced by the DIFE, reporting to the Ministry on the prevailing labour situation, etc.

The Committee notes, however, with **concern** the new allegations of violent suppression by the police of several workers' protests in 2018 and 2019 communicated by the ITUC, which denounce the use of rubber bullets, tear gas and water cannons, and the raiding of homes and destruction of property, as a result of which one worker was killed and more than a hundred injured, as well as the filing of false criminal complaints against hundreds of named unionists and thousands of unnamed persons. The Committee notes the Government's detailed reply thereto and observes that no information was provided in respect of: (i) the alleged injuries to 20 rickshaw drivers during suppression of protests in April 2018; (ii) the alleged injuries to 25 jute mill workers after dispersal of two protests in Chittagong in August 2018; (iii) the alleged injuries to ten garment workers during a protest over non-payment of wages in Gazipur in September 2018; and (iv) the alleged repression of export-processing zones (EPZs) workers for attempting to exercise their limited rights permitted under the law. In this regard, the Committee recalls once again 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 provide information on the remaining specific allegations of violence and repression, including to report on any investigations or prosecutions initiated and the results thereof.***

***The Committee 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 with the aim of avoiding the use of excessive force and ensuring full respect for civil liberties during public assemblies and demonstrations, and requests the Government to take all necessary measures to prevent such incidents of violence and repression in the future and ensure that, if they occur, they are properly investigated.***

*Article 2 of the Convention. Right to organize. Registration of trade unions.* In its previous comment, having observed that the number of rejected applications for registration remained high, the Committee requested the Government

to continue to take all necessary measures to ensure that the registration process is a simple formality; to provide updated statistics as to the overall number of applications for registration received, accepted and rejected, and to clarify the status of the 509 applications submitted through the online system, which were not granted. The Committee notes the Government's indication that: (i) the Standard Operating Procedures (SOPs) have been incorporated in the 2018 amendment of the BLA as a new section and the concerned officials received training on the subject; (ii) after the adoption of the SOPs, the success rate in union registration has increased from 65 per cent in 2017 before the adoption of the SOPs to 79.85 per cent after their adoption, 74.85 per cent in 2018 and 74 per cent up to July 2019; (iii) although the rejection rate remains high it can be further reduced through training of concerned DOL officials and workers and, with support from the ILO, effort is being taken in this regard; (iv) if an application for registration is incomplete, the applicant may resubmit it after having complied with the Registrar's observations or appeal to the Labour Court within 30 days; sometimes, instead of taking legal action, the applicants submit repeated applications which can be a cause for repeated rejection; (v) if an application is incomplete due to non-fulfilment of the requirements or lacking information and the concerned parties are not able to meet the objection raised by the Registrar within 15 days, the application will be filed without any action; (vi) there are no cases of arbitrary refusal of registration but applications can be rejected for not meeting one of the requirements set out in the BLA and the decision is communicated to the applicant by registered post; (vii) the time limit for the DOL to register a trade union was reduced from 60 to 55 days and the time limit to communicate any objection to the applicant and for the applicant to reply was reduced from 15 to 12 days (section 182(1), (2) and (4)); (viii) on the basis of 546 applications granted between March 2015 and April 2018, the average time for registration is 45 days; (ix) the online registration system is not yet mandatory and both the service providers at the DOL and the workers require intensive training on the matter for which a request has been submitted to the ILO, Dhaka; (x) due to the huge volume of documents that have to be submitted, the applicants and the service providers follow a combination of the manual and online systems; (xi) due to administrative and technical reasons, including the upgrading of the software, neither the online registration nor the public database on registration are currently available; (xii) once the upgrade is complete, the database will include information on applications for registration accepted and rejected, registration of sectoral and national federations and confederations, trade union-related court cases, conciliation, election of collective bargaining agents, anti-union discrimination and information on participation committees; (xiii) as for the 509 applications for registration referred to previously, they were processed manually and at this stage, it is not possible to mention how many were granted; (xiv) trade union registration functions of the DOL have been decentralized and there are now 16 offices mandated to give registration (head office, six divisional labour offices and nine regional labour offices); and (xv) the Government has completed the upgrade of the Directorate of Labour to a Department of Labour, which has resulted in an increase of manpower from 712 to 921, a considerable increase in the DOL budget, and the creation of two additional divisional labour offices.

The Committee takes note of the detailed information provided by the Government and welcomes the increase of manpower of the DOL, as well as the decentralization of registration, which have the potential to increase the rapidity and efficiency of the registration process. The Committee observes however, that despite the Government's efforts to simplify the process and ensure its transparency, registration seems to remain overly complicated, obliging the applicants to comply with stringent conditions and submit numerous documents, leading to the online registration not being fully functional. While further noting the reported increase in the rate of trade union registration, the Committee observes that the rejection rate remains high (26 per cent), especially considering that this number seems to refer only to the rejection of complete applications and does not include incomplete applications, which are filed by the DOL without further action. The Committee also notes that, according to the ITUC, the registration process remains extremely burdensome, the SOPs fail to prevent arbitrary denial of applications, the Registrar routinely imposes conditions not based in the law or regulations and the Joint Director of Labour retains total discretionary power to refuse registration for false or fabricated reasons. ***In light of the above and noting the Government's commitment to a further reduction in the number of rejected trade union applications, the Committee encourages the Government to continue to take all necessary measures to ensure that registration is, both in law and practice, a simple, objective, rapid and transparent process, which does not restrict the right of workers to establish organizations without previous authorization. It invites the Government to explore, in cooperation with the social partners, concrete ways of simplifying the registration process to make it more user-friendly and accessible to all workers, as well as to provide, where necessary, training to workers on submitting complete and duly documented applications for trade union registration. It also encourages the Government 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 capacities to handle applications for registration rapidly and efficiently. While further noting the technical difficulties currently encountered, the Committee trusts that both the online registration system and the publicly available database will be fully operational in the near future so as to ensure total transparency of the registration process. Regretting that the Government fails to provide full statistics on registration, the Committee requests it once again to provide updated statistics on the overall number of applications submitted, granted, filed and rejected, disaggregated by year and sector.***

***Minimum membership requirements.*** In its previous comments, the Committee urged the Government to continue to take the necessary measures to review sections 179(2) and 179(5) of the BLA without delay, in consultation with the social partners, with a view to truly reducing the minimum membership requirement. The Committee notes the Government's indication that: (i) through the 2018 BLA amendment, the minimum membership requirement to form a trade union and maintain its registration has been reduced from 30 to 20 per cent of the total number of workers employed in the

establishment in which a union is formed; (ii) since this reduction, a total of 216 trade unions have been registered; (iii) section 179(5) of the BLA which limits the number of trade unions in an establishment or group of establishments to a maximum of three might require some time to amend; and (iv) both issues may be considered at the next revision of the BLA. While welcoming the reduction in the minimum membership requirement, the Committee observes that the 20 per cent threshold is still likely to be excessive, especially in large enterprises, and notes that, according to the ITUC, it does in practice constitute a hurdle for the workforce to organize in large companies. The Committee also observes that a trade union formed in a group of establishments (defined as more than one establishment in a particular area carrying out the same or identical industry) can only be registered if it has as members not less than 30 percent of the total number of workers employed in all establishments, an excessive requirement that unduly restricts the right of workers to establish sectoral or industry unions. ***The Committee requests the Government to clarify whether, in handling applications for registration, the reduced minimum membership requirement is being applied even in the absence of adjustments to the Bangladesh Labour Rules (BLR) and, should this not be the case, to take the necessary steps without delay to apply these amendments so as to facilitate trade union registration and to indicate the results once it has been applied. The Committee also requests the Government to indicate whether the reduced minimum membership requirement has had any impact on the overall number of trade union registrations submitted and granted, especially in large enterprises. Noting the Government's openness to further reducing the threshold, the Committee expects the Government to engage in meaningful discussions with the social partners in order to: continue to review the BLA with the aim of reducing the minimum membership requirements to a reasonable level, at least for large enterprises and trade unions in a group of establishments; amend section 179(5); and repeal section 190(f) that allows for cancellation of a trade union if its membership falls below the minimum membership requirement.***

With regard to the application of the BLA to workers in the agricultural sector, the Committee notes the Government's indication that the BLA is applicable to workers engaged in commercial agricultural farms where at least five workers are employed – they can participate in trade union activities and collective bargaining – and that small agricultural farms where less than five workers are employed are characterized by low productivity and subsistence farming and generally do not express any interest in trade union activities. While noting the Government's explanation, the Committee recalls that workers in small farms should also be allowed to form or at least join existing trade unions, even if in practice this may not result in a common occurrence. The Committee had also previously requested the Government to clarify, under this Convention and the Right of Association (Agriculture) Convention, 1921 (No. 11), whether Rule 167(4) of the BLR establishes a 400 minimum membership requirement to form an agricultural trade union and to provide information on its effects in practice and its impact on the right of agricultural workers to form trade union organizations of their own choosing. The Committee notes the Government's statement that workers in mechanized farms run for commercial purposes may organize according to the existing provisions of the BLA (the Government provides statistics on the number of existing trade unions in various agricultural sectors) and workers in family-based subsistence farms characterized by few workers can form groups of establishment under Rule 167(4). The Government further explains that Rule 167(4) erroneously referred to the requirement of 400 workers to form a trade union but that this requirement has been redefined through a gazette notification in January 2017. The Rule thus provides an opportunity for workers engaged in field crop production to form a group of establishments in every subdistrict or district, if there are at least five workers in each farm and a minimum of 400 workers unite (there are 18 such entities registered with the Department of Labour). According to the Government, since 77 per cent of the population lives in villages and agriculture represents the main source of livelihood, this membership requirement is not too high. ***Taking due note of the Government's clarification but observing that the requirement of 400 workers to form a group of establishments in one district might still be excessive, especially considering that, in order to reach the 400 threshold, a large number of small family farms would need to unite, the Committee requests the Government to endeavor to reduce this requirement, in consultation with the social partners, to a reasonable level so as not to unduly restrict the right to organize of agricultural workers.***

*Articles 2 and 3. Right to organize, elect officers and carry out activities freely. Bangladesh Labour Act.* In its previous comments, the Committee had urged the Government to take the necessary measures, in consultation with the social partners, to continue to review and amend a number of provisions of the BLA in order to ensure that any restrictions on the exercise of the right to freedom of association are in conformity with the Convention. The Committee notes the detailed information provided on tripartite consultations held before the 2018 BLA amendment, as well as the Government's indication that reform in the labour sector has been a part of national political commitment. The Committee notes with ***satisfaction*** the following modifications introduced in the BLA: addition of section 182(7) instructing the Government to adopt SOPs for the processing of applications for registration of trade unions; repeal of section 184(2)–(4) imposing excessive restrictions on organizing in civil aviation; repeal of section 190(d) allowing cancellation of a trade union due to violation of any of the basic provisions of its constitution; repeal of section 202(22) providing for automatic cancellation of a union if, in an election for determination of collective bargaining agent, it obtains less than 10 per cent of the total votes cast; addition of section 205(12) stating that there is no requirement to form a participation committee in an establishment where there is a trade union; and addition of section 348(A) which provides for the establishment of a Tripartite Consultative Council to provide advice to the Government on matters related to law, policy and labour issues.

The Committee welcomes the clarification that workers in the informal sector do not need to provide identity cards issued by an establishment to apply for registration but can also use a national identity card or birth registration certificate (section 178(2)(a)(iii)), as well as the replacement of the obligation to obtain approval from the Government by an obligation

to inform the Government of any funds received from any national or international source, except union dues (section 179(1)(d)). The Committee further welcomes the reduction of the requirement of support of two thirds of trade union members to call a strike to 51 per cent (section 211(1)). The Committee also notes that the 2018 amendments introduced section 196(4) providing for the adoption of SOPs for investigating unfair labour practices on the part of the workers and reduced by half the maximum prison sentence imposed on workers for a series of violations – unfair labour practices, instigation and participation in an illegal strike or a go-slow, participation in activities of unregistered trade unions and dual trade union membership (sections 291(2)–(3), 294–296, 299 and 300). However, the Committee observes that the sanctions still include imprisonment for activities that do not justify the severity of the sanction and recalls that it has been requesting the Government to eliminate such penalties from the BLA and to let the penal system address any possible criminal acts.

***Taking due note of the above amendments introduced to improve compliance with the Convention, the Committee expects them to be applied in practice without delay so as to enhance the right to organize of workers and employers and requests the Government to indicate whether they are fully in force and applied or whether their application is dependent upon the issuance of a revised BLR.***

The Committee *regrets* that many other additional changes it has been requesting for a number of years have either not been addressed or have been addressed only partially, including some that were previously announced by the Government for amendment. In this regard, the Committee emphasizes once again the need to further review the BLA to ensure its conformity with the Convention regarding the following matters: (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 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 they 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 previously requested the Government, under Convention No. 11, to indicate 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).

***In light of the numerous provisions mentioned above which still need to be amended to bring the BLA fully in line with the Convention, the Committee encourages the Government to engage rapidly with the Tripartite Consultative Council (TCC) referred to in section 348(A) so as to pursue the legislative review of the BLA. It requests the Government to provide information on the composition, mandate and functioning in practice of the TCC and trusts that, in the next revision of the BLA, these comments will be duly taken into account to ensure that its provisions are in full conformity with the Convention.***

***Bangladesh Labour Rules.*** In its previous comments, the Committee requested the Government to review a number of BLR provisions to bring them in line with the Convention and trusted that during the revision process its comments would be duly taken into account. The Committee notes the Government's indication that, following the amendment of the BLA, revision of the BLR is a priority action for the Government and a tripartite committee, composed of six representatives of the Government and three representatives of workers and employers each, has already been formed for this purpose and has met on three occasions. Welcoming this information, the Committee emphasizes the need to review the BLR to align it with the 2018 amendments of the BLA, as well as regarding the following matters previously raised: (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; Rule 169(4) limits eligibility to a trade union executive committee to permanent workers, which can have an impact on the right of workers' organizations to elect their officers freely; (iii) Rule 188 provides for employer participation in the formation of election committees which conduct the election of worker representatives to participation committees in the absence of a union – this, according to the ITUC, could lead to management domination of participation and safety committees; (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 204, which restrictively determines that only subscription-paying workers can vote in a ballot to issue a strike, is not in line with section 211(1) of the BLA which refers to union members;

(vii) Rule 350 provides for excessively broad powers of inspection of the Director of Labour; and (viii) the BLR lacks provisions providing appropriate procedures and remedies for unfair labour practice complaints. ***The Committee expects the revision process to be concluded without delay so as to ensure that the 2018 BLA amendments introduced to improve compliance with the Convention are reflected in the BLR and its application, and to address other pending issues, as referred to above.***

***Right to organize in EPZs.*** In its previous comments, the Committee had requested the Government to continue to revise the draft EPZ Labour Act, 2016 and 2017 in consultation with the social partners, so as to provide equal rights of freedom of association to all workers and bring the EPZs within the purview of the Ministry of Labour and the labour inspectorate. The Committee notes the Government's indication that the draft EPZ Labour Act was formulated after a pragmatic and neutral analysis of the socio-economic conditions of the country and went through a long process of extensive and inclusive consultations and dialogue with all levels of stakeholders, including the ILO. The Government provides detailed information on the consultations that have taken place and informs that the Bangladesh ELA, adopted in February 2019, upholds the rights and privileges of the workers and includes comprehensive changes and measurable progress. The Committee notes with ***satisfaction*** the following amendments made, which address its previous observations: simplification of the formation and registration of workers' welfare associations (WWAs) – the institutional form given to workers' organizations in EPZs – through amendment of a number of provisions of the draft EPZ Labour Act, 2016 and repeal of section 96 establishing an excessive referendum requirement to constitute a WWA; section 16 of the EPZ Workers' Welfare Association and Industrial Relations Act, 2010 (EWWAIRA) prohibiting the establishment of a WWA in a new industrial unit for three months has not been included in the ELA; repeal of section 98 of the draft EPZ Labour Act prohibiting the holding of a new referendum to form a WWA during one year after a failed one; repeal of section 101 authorizing the Zone Authority to form a committee to draft a WWA constitution and to approve it; repeal of section 116 allowing deregistration of a WWA for a number of reasons, including at the request of 30 per cent of eligible workers even if they are not members of the association and prohibiting the establishment of a new association within one year after such deregistration; amendment of section 103(2) to remove the mandatory opening of election of Executive Council members to all workers and not only WWA members; repeal of section 103(5) of the draft EPZ Labour Act, 2017 restricting the right to elect and be elected to the Executive Council to workers who have worked at the enterprise for a specific period; and reduction of the requirement to issue a strike notice from three quarters of members of the Executive Council to two-thirds (section 127(2) of the ELA).

The Committee further welcomes the reduction in the minimum membership requirement to form WWAs but observes that the new requirement of 20 per cent (sections 94(2) and 97(5)) may still be excessive, especially in large enterprises, and considering that only permanent workers may apply to form a WWA. While also welcoming the addition of a provision allowing for the formation of higher-level organizations within a Zone (sections 2(50) and 113), the Committee observes that the conditions to form a federation are excessively strict – more than 50 per cent of WWAs in one Zone must agree to establish a federation – and that a WWA federation cannot affiliate or associate in any manner with another federation in another Zone or beyond the Zone (section 113(3)). ***In view of the above, the Committee requests the Government to provide information on the application in practice of the new amendments, in particular the reduced minimum membership requirement to form WWAs and the possibility to create federations, including to indicate the practical implications of these amendments on the number of applications for WWAs and WWA federations submitted and registered. The Committee trusts that, in order to achieve full compliance with the Convention, the Government will continue, in consultation with the social partners concerned, to endeavor to further reduce, to a reasonable level, the minimum membership requirements to form a WWA, especially in large establishments, as well as 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.***

While taking due note of the above amendments and of the Government's efforts to address some of its previous observations, the Committee ***regrets*** that most of the changes it requested have not been addressed despite the Government's assurance that it took the Committee's observations into the highest consideration. The Committee, therefore, emphasizes once again 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) limitative 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 in that 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 approving funds from an outside source (section 96(3)), approving any amendment in a WWA constitution and Executive Council (section 99), arranging

elections to the Executive Council of WWAs (section 103(1)) and approving it (section 104), ruling on the legitimacy of a transfer or termination of a WWA representative (section 121), determining the legitimacy of any WWA and its capacity to act as a collective bargaining agent (section 180(c)) and monitoring 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) limitation 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 making the rule of law a discretionary right (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) – these could further restrain the right of workers and their organizations to carry out legitimate trade union activities without interference. ***Taking due note of the fact that the ELA was adopted in February 2019 but observing that a large number of provisions still need to be repealed or substantially amended to ensure its conformity with the Convention and taking good note of the Government's commitment to further improve and reform the existing provisions, the Committee expects that the discussion on the revision of the ELA will continue in the near future, in consultation with the social partners, so as to address the issues highlighted above (and others that may arise during discussion) in a meaningful manner and provide EPZ workers with all the rights guaranteed in the Convention. The Committee trusts that the Government will be able to report progress in this regard.***

Finally, the Committee notes with *interest* the Government's indication that the inspection and administration system of EPZs have been brought in line with the BLA (Chapter XIV of the ELA), that section 168 allows the Chief Inspector and other inspectors appointed under the BLA to undertake inspections of EPZs and that several joint inspections have already taken place. The Committee observes, however, that for the DIFE to inspect EPZ establishments, an approval of the Executive Chairman is required and the Chairman retains ultimate supervision of labour standards in EPZs (sections 168(1) and 180(g)), which may hinder the independent nature and proper functioning of labour inspection. The Committee notes the Government's indication that consultations with the workers, investors and relevant stakeholders are ongoing to analyse how best the DIFE may be allied with the existing inspection system in EPZs and to develop an integrated inspection framework. ***Referring to its more detailed comments on this point made under Convention No. 81, the Committee encourages the Government to take steps to elaborate the aforementioned inspection framework in order to clarify the powers of the DIFE and the Zone Authority, as well as the functioning in practice of joint inspections or inspections conducted by the labour inspectorate of EPZ establishments. The Committee also requests the Government to continue to take further steps to ensure unrestricted access and jurisdiction over labour inspection activities in EPZs for DIFE inspectors.***

***The Committee once again recalls the critical importance which it gives to freedom of association as a fundamental human and enabling right and, in view of the Government's reiterated commitment to labour reform and to ensuring protection of the rights of workers, the Committee expresses its firm hope that significant progress will be made in the very near future to bring both the legislation and practice into conformity with the Convention. The Committee reminds***

*the Government that it can avail itself of the technical assistance of the Office should it so desire in order to assist the national tripartite dialogue in determining further areas for progress.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1972)**

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019 referring to matters addressed in this comment.

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-compliance by Bangladesh with this Convention, as well as the Labour Inspection Convention, 1947 (No. 81), and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), submitted by several Workers' delegates to the 2019 International Labour Conference, was declared receivable and is pending before the Governing Body.

The Committee notes the 2018 amendment of the Bangladesh Labour Act, 2006 (BLA) and the adoption of the 2019 Export Processing Zones Labour Act (ELA).

*Articles 1 and 3 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comments, the Committee requested the Government to provide detailed statistics on the number of complaints of anti-union discrimination received by the relevant authorities and their follow-up and to take the necessary measures, after consultation with the social partners, to increase the penalties envisaged for unfair labour practices and acts of anti-union discrimination, and to indicate the outcome of 39 mentioned complaints that gave rise to criminal cases. It also expressed its expectation that the measures taken by the Government would contribute to an expedient, efficient and transparent handling of anti-union discrimination complaints. The Committee notes with **interest** the addition of section 196(A) in the BLA explicitly prohibiting anti-union activities by the employer and providing for the establishment of standard operating procedures (SOPs) for investigating such acts. The Committee notes the Government's statement that in case of alleged anti-union activities at enterprise level, it generally intervenes through tripartite consultations, including by setting up dedicated committees for rapid and effective remedial measures, which proved effective in the national industrial relations context, and that in case of serious allegations, there is scope for on-site investigation and referral to the labour courts. It also notes the details provided by the Government on the procedure established under the SOPs to follow up complaints received, which consists of seven stages (written complaint, verification, communication with the employer, investigation, resolution, record with recommendations and referral to labour courts). The Committee further notes the Government's indication that: (i) following the adoption of the SOPs on anti-union discrimination, the handling of complaints has become easier and more transparent and the SOPs are referred to in the 2018 BLA amendment (sections 195(2), 196(4) and 196(A); (ii) the upgrade of the Directorate of Labour (DOL) to a Department of Labour has been completed, resulting in an increase of manpower from 712 to 921, a considerable increase in the DOL budget, and the creation of two additional divisional labour offices; (iii) the software for the publicly available online database on anti-union discrimination is currently being upgraded, but once completed, the database will include information on, among others, trade union related court cases, conciliation, election of collective bargaining agents, anti-union discrimination and information on participation committees; (iv) from 2013 to July 2019, 257 complaints regarding anti-union discrimination and unfair labour practices were submitted to the labour office, of which 203 were addressed (51 cases referred to labour courts and 152 disposed of amicably through reinstatement, compensation, memorandums of understanding, arrear wages, etc.) and 54 are undergoing investigation; and (v) of 51 criminal cases referred to labour courts (39 in the previous report), 48 are pending and three were settled – two in favour of the employer and one in favour of the workers. The Committee also notes the details provided by the Government on the type of anti-union practices referred to in the complaints and the remedies applied, as well as information on training and capacity-building activities provided to the concerned stakeholders and workers, including through the workers' resource centre. Taking due note of the information provided, the Committee recalls 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 (see the 2012 General Survey on the fundamental Conventions, paragraph 190). **The Committee requests the Government to continue to provide detailed statistics on the number of complaints of anti-union discrimination received by the relevant authorities and their follow-up, including time taken to resolve the disputes, remedies imposed, the number of complaints settled amicably compared to those referred to labour courts, the results of judicial proceedings and the sanctions ultimately imposed following full proceedings. The Committee encourages the Government to continue to provide the necessary training to labour officials on dealing with anti-union and unfair labour practices complaints with a view to ensuring their efficient and credible handling and to inform about the functioning in practice of the workers' resource centre. While noting the technical challenges encountered, the Committee expects the online database on anti-union complaints to be fully operational in the near future so as to ensure transparency of the process and at the same time ensuring protection of personal data of the workers concerned.**

The Committee **regrets** that despite its previous request to increase the penalties envisaged for unfair labour practices and acts of anti-union discrimination by employers, the applicable fines remained unchanged and, as a result, are not sufficiently dissuasive (a fine of maximum 10,000 Bangladeshi taka (BDT) which equals US\$120 – section 291(1) of the BLA). The Committee further notes that the penalty of imprisonment has been reduced through the 2018 BLA amendment from two years to one year (section 291(1) of the BLA). **While noting that the BLA has been recently amended, in order**

*to ensure that acts of anti-union discrimination give rise to a just reparation and sufficiently dissuasive sanctions, the Committee requests the Government once again to take the necessary measures, after consultation with the social partners, to increase the amount of the fine imposable for acts of anti-union discrimination.*

*Helpline for submission of labour-related complaints.* In its previous comment, the Committee requested the Government to continue to provide detailed updates on the functioning of the helpline for submission of labour-related complaints targeting the ready-made garment (RMG) sector in the Ashulia area and to clarify the status of the 1,567 complaints mentioned that had not been settled. The Committee notes the detailed information provided on the functioning of the helpline: complaints are received through the helpline by a tele consultant group and are then transferred to district offices of the Department of Inspection for Factories and Establishments (DIFE) and investigated by a labour inspector. Mitigation of the complaints is done in three ways: (1) through tripartite meetings (section 124A of the BLA); (2) communication of the complaint to the factory management, who then resolves the issue; or (3) legal action by the DIFE through filing of cases to labour courts. The Government informs that the DIFE received a total of 3,559 complaints between March 2015 and August 2019, of which 3,529 were resolved and 30 complaints are pending, and that the time for resolving the complaints depends on the nature and complexity of the issue. ***Taking due note of the information, the Committee requests the Government to clarify the outcome of the 3,529 complaints that have been resolved, to indicate the number or the percentage of complaints specifically related to anti-union practices, and to provide information on whether any steps are taken to ensure anonymity of the complainants so as to prevent reprisals against helpline users. Observing that the helpline has been in service since 2015, the Committee encourages the Government to formally expand the helpline to other geographical areas and industrial sectors, in line with its previously expressed commitment.***

*Allegations of anti-union discrimination following the 2016 Ashulia incident and the 2018 minimum wage protests.* In its previous comment, the Committee requested the Government to ensure that any pending proceedings in relation to the Ashulia incident are concluded without delay, that all workers dismissed for anti-union reasons who wish to return to work are reinstated, and expressed its expectation that measures would be taken to prevent repeated and institutionalized acts of anti-union discrimination. The Committee notes the information provided by the Government that, in relation to the Ashulia incident, all those in custody were immediately released, no worker was imprisoned and after primary investigation, all cases were concluded without framing any charge against any worker and observes that the Committee on Freedom of Association had noted the Government's indication that no worker had been removed for participation in activities related to the Ashulia strike but that a number of workers resigned upon receipt of their due payments (see 388th Report, March 2019, Case No. 3263, paragraph 202). With regard to the 2018 minimum wage protests, the Committee notes the Government's indication that while the social partners provided a list of 12,436 workers dismissed from 104 factories, after primary verification by the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and the Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA), it was found that 94 factories were involved and 4,489 workers were terminated from 41 factories. The Government clarifies that all terminated workers received benefits according to the existing provisions of the BLA, two factories were found closed, memorandums of understanding were signed between workers' federations and the employer in ten factories and collection of information from 12 factories is in progress. Noting with ***concern*** the massive dismissals of workers following their participation in the 2018 minimum wage protests, the Committee observes that investigations into these allegations do not seem to be conducted by an independent entity but by employers' organizations concerned. ***In view of the above, the Committee requests the Government to clarify its involvement in the ongoing investigations into the massive dismissals of workers following the 2018 minimum wage protests and to provide information on whether an investigation, by an independent entity, has taken place in this regard. The Committee firmly expects that any future investigations into concrete allegations of anti-union discrimination will be done in full independence and impartiality and that the Government will continue to take all necessary measures to prevent repeated and institutionalized acts of anti-union discrimination. Further recalling that in case of dismissal by reason of trade union membership or legitimate trade union activities, reinstatement should be included among the range of measures that can be taken to remedy such a situation and that, if compensation or fines are imposed, these should be sufficiently dissuasive, the Committee requests the Government to provide information on the concrete remedies applied in all cases of termination of workers in the above incidents for which it has been found that they had occurred for anti-union reasons.***

*Case concerning dismissed workers in the mining sector.* In its previous comments, the Committee requested the Government to provide information on the outcome of the judicial proceedings concerning dismissed workers in the mining sector who were charged with illegal activities (case No. 345/2011) once the judgment of the District Sessions Court, Dinajpur has been rendered. Noting the Government's statement that no hearing has yet been held but observing that the case has been pending for several years, the Committee emphasizes the importance of ensuring expeditious examination of allegations of anti-union discrimination so as to ensure adequate protection against such acts in practice. ***The Committee expects the case to be completed rapidly and requests the Government to provide information on its outcome once the judgment of the District Sessions Court, Dinajpur has been rendered.***

*Protection of workers in export-processing zones (EPZs) against acts of anti-union discrimination.* In its previous comment, the Committee requested the Government to provide clarification on several aspects of inspection and hearings conducted by the Bangladesh Export Processing Zones Authority (BEPZA or Zone Authority) and on the application of the RMG helpline to EPZ workers. It requested the Government to establish an online database for anti-union discrimination

complaints specific to the EPZs and to continue to provide statistics on anti-union discrimination complaints. The Committee notes the Government's clarification that the RMG helpline established by the DIFE is not applicable to EPZ factories but that there is an individual helpline and independent help desk in eight EPZs where labour-related complaints can be easily submitted, and that the establishment of an online database for workers' complaints is in process. It also notes the detailed information provided on the inspection and monitoring of the working conditions, complaints and grievances of workers by BEPZA, which includes: spontaneous visits to enterprises; possibility to submit anonymous complaints to counsellor-cum-inspectors, industrial relation officers, general manager of the concerned zone or BEPZA executive office which are investigated neutrally; an enquiry option on the BEPZA official website where anyone can drop a message, query or complaint; a complaint box in each EPZ office where workers can drop a complaint and get assistance from the Zone Authority; and the possibility of posting updates and getting information on the social media website. ***Taking due note of the detailed information provided but observing that no statistics were submitted in this regard, the Committee requests the Government once again to provide detailed statistics on the number of anti-union discrimination complaints brought to the competent authorities, their follow-up and the remedies and sanctions imposed.***

The Committee also previously requested the Government to bring the EPZs within the purview of the Ministry of Labour and the labour inspectorate. The Committee notes with *interest* the Government's indication that the inspection and administration system of EPZs have been brought in line with the BLA (Chapter XIV of the ELA), that section 168 of the ELA allows the Chief Inspector and other inspectors appointed under the BLA to undertake inspections of EPZs and that several joint inspections have already taken place. The Committee refers to its more detailed comments in this regard made under Conventions Nos 81 and 87.

While noting the Government's indication that radical changes have been made to bring the ELA in line with the BLA and improve protection against anti-union discrimination, the Committee observes that, in terms of ensuring adequate protection against acts of anti-union discrimination, there is a further need to continue to review the law to ensure its conformity with the Convention regarding the following matters: 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 workers' welfare associations (WWAs), and thus from protection against anti-union discrimination (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)); broad power of the Executive Chairperson to rule on the legitimacy of a transfer or termination of a WWA representative (section 121(3)-(4)); broad exception to protection against anti-union discrimination (section 121(2) paragraph 2); lack of specific measures to remedy acts of anti-union discrimination except in case of WWA officials covered by section 121; insufficiently dissuasive fines for unfair labour practices – a maximum of US\$600 (section 151(1)) and for anti-union discrimination during an industrial dispute – a maximum of US\$120 (section 157). ***Taking due note of the fact that the ELA has been adopted in February 2019 but observing that the above provisions need to be further amended to ensure their conformity with the Convention, the Committee expects that the discussion on the revision of the ELA will continue in the near future, in consultation with the social partners, to address the issues highlighted above in a meaningful manner so as to ensure that all workers covered by the Convention are adequately protected against acts of anti-union discrimination. The Committee trusts that the Government will be able to report progress in this regard.***

Finally, the Committee observes with *concern* the allegations communicated by the ITUC referring to widespread anti-union practices in the country and illustrated by the dismissal of 36 workers in two EPZ factories in April 2019 following unsuccessful attempts at collective bargaining. ***The Committee requests the Government to provide its reply to these allegations.***

***Articles 2 and 3. Lack of legislative protection against acts of interference in the BLA and the ELA.*** The Committee previously emphasized the importance of providing for explicit provisions in the BLA granting full protection against acts of interference. While noting the Government's emphasis on the 2018 BLA amendments and noting that sections 195(1)(g) and 202(13) prohibit employer's interference in the conduct of elections for a collective bargaining agent and Rule 187(2) of the Bangladesh Labour Rules (BLR) prohibits interference in elections of workers' representatives to participation committees, the Committee observes that these provisions do not cover all acts of interference prohibited under Article 2 of the Convention, such as acts designed to promote the establishment of workers' organizations under the domination of the employer, to support workers' organizations by financial or other means with the objective of placing them under the control of an employer or an employers' organization, to exercise pressure in favour or against any workers' organization, etc. Similarly, while noting that the ELA contains certain provisions prohibiting acts of interference (sections 115(1)(f) and 116(3)), the Committee observes that they do not cover all acts of interference prohibited under Article 2 of the Convention. ***The Committee therefore requests the Government to take all necessary measures to broaden the current scope of protection against acts of interference in the BLA and the ELA, so as to ensure that workers' and employers' organizations are effectively protected against all acts of interference both in law and in practice. The Committee trusts that, in the meantime, efforts will be made to ensure that, in practice, workers' and employers' organizations will be protected from any acts of interference against each other.***

***Article 4. Promotion of collective bargaining.*** The Committee previously requested the Government to inform about the application in practice of section 202A(1) of the BLA providing for assistance from specialists in the context of collective bargaining. The Committee notes the Government's explanation that there is currently no uniform procedure for

the use of experts in collective bargaining but that the issue may be considered during the revision of the BLR, that out of nine collective bargaining agreements concluded at the national level and seven at the sectoral level between 2017 and 2019, support of experts was used in five cases and that the assistance of experts facilitates decision-making on collective agreements with confidence.

The Committee also requested the Government to ensure that Rule 4 of the BLR giving the Inspector General total discretion to shape the outcome of service rules and determine their conformity with the law was not used to limit collective bargaining and to provide information on the application in practice of Rule 202, which prohibits certain trade union activities in a way that could impinge on the right to freedom of association and collective bargaining. In relation to Rule 4, the Government informs that the management of factories prepares service rules together with trade unions and in case of any objection, tripartite meetings are arranged to address the objection and only then does the DIFE verify the conformity of the service rules with the law, thus not hampering collective bargaining. It also states that amendment of Rule 202 may be discussed in the next revision of the BLR. ***The Committee encourages the Government to consider amending Rule 202, in consultation with the social partners, during the next revision of the BLR in order to ensure it does not unduly impinge on the right to collective bargaining.***

***Higher-level collective bargaining.*** The Committee previously requested the Government to consider amending sections 202 and 203 of the BLA to clearly provide a legal basis for collective bargaining at the industry, sector and national levels and to continue to provide statistics on the number of higher-level collective agreements concluded. While noting the amendments made to section 202 of the BLA, the Committee observes that these do not address its previous concerns about the lack of a legal basis for higher-level collective bargaining. The Committee notes the statistics provided by the Government on the number of collective agreements concluded, the number of workers covered and the sectors to which they relate but observes that these agreements appear to have been concluded at the level of the enterprise and not at sectoral or national levels. It recalls in this regard the need to ensure that collective bargaining is possible at all levels, both at the national level, and at enterprise level; it must also be possible for federations and confederations (see the 2012 General Survey, paragraph 222). ***In view of the above, the Committee requests the Government to consider, in consultation with the social partners, to further revise sections 202 and 203 of the BLA so as to clearly provide a legal basis for collective bargaining at the industry, sector and national levels. Observing that the information provided by the Government lacks certain elements previously called for, the Committee requests the Government to continue to provide statistics on the number of higher-level collective agreements concluded (at the sectoral and national levels), the areas of industry to which they apply and the number of workers covered.***

***Collective bargaining in the agricultural sector.*** The Committee notes the information provided by the Government in reply to the Committee's comments made under the Right of Association (Agriculture) Convention, 1921 (No. 11), in particular that, through bipartite or tripartite negotiations, trade unions and associations of agricultural workers conclude agreements with employers every three years concerning terms and conditions of work, welfare facilities, insurance, safety, security and other matters. ***The Committee requests the Government to indicate whether statistics are available on the number of collective agreements concluded in the agricultural sector, the type of activity concerned and the number of workers covered, and if so, to provide details in this regard. It also requests the Government to clarify the functioning in practice of tripartite negotiations in this sector.***

***Determination of collective bargaining agents.*** In its previous comment, the Committee requested the Government to provide clarification on the exact requirements for a trade union to become a collective bargaining agent. The Committee notes the Government's explanation that there has not yet been a situation where, among several existing unions, no union received the required percentage of votes (one third of the total number of workers employed in the establishment concerned) and recalls that the determination of the threshold of representativeness to designate an exclusive agent for the purpose of negotiating collective agreements which are destined to be applied to all workers in a sector or establishment is compatible with the Convention insofar as the required conditions do not constitute an obstacle to the promotion of free and voluntary collective bargaining in practice. The Committee wishes to clarify that it is not requesting the Government to remove the one third majority requirement for the acquisition of the exclusive bargaining agent status but recalls 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, the existing unions should be able to negotiate, jointly or separately, at least on behalf of their own members. ***The Committee therefore requests the Government to clarify whether, in case where no union reaches the required threshold to be recognized as the exclusive collective bargaining agent under section 202 of the BLA, the existing unions are given the possibility, jointly or separately, to bargain collectively, at least on behalf of their own members.***

***Promotion of collective bargaining in the EPZs.*** In its previous comment, the Committee requested the Government to provide information on any cases where the BEPZA Executive Chairperson rejected the legitimacy of a WWA and its capacity to act as a collective bargaining agent, to take the necessary measures to ensure that the determination of collective bargaining agents in EPZs is the prerogative of an independent body and to continue to provide statistics on the number of collective bargaining agreements concluded. The Committee notes the Government's statement that a WWA registered under the Act in an industrial unit is the collective bargaining agent for that industrial unit (section 119) of the ELA, that there has been no case of rejection of the legitimacy of a WWA and its capacity to act as a collective bargaining agent so far under section 180(c) and that this provision is a safeguard of legitimate WWAs and collective bargaining agents. Taking due note of the explanation, the Committee recalls, however, that the determination of bargaining agents should be carried

out by a body offering every guarantee of independence and objectivity. The Government further informs that all 237 elected and registered WWAs are actively performing their activities with full freedom and that during the last five years they had submitted 521 charters of demands, all of which had been negotiated successfully and collective bargaining agreements or memorandums of understanding had been signed. *Welcoming the Government's commitment to take the necessary measures to maintain yearly statistics in this regard, the Committee requests the Government to continue to provide statistics on the number of collective bargaining agreements concluded in the EPZs, the sectors and the number of workers covered, along with some sample agreements. The Committee requests the Government to endeavour to further amend section 180 of the ELA, in consultation with the social partners, to ensure that the determination of collective bargaining agents in EPZs is the prerogative of an independent body, such as the Department of Labour. The Committee also requests the Government to clarify the implications in practice of section 117(2) which does not allow any proceedings before a civil court for the purpose of enforcing or recovering damages for breach of any agreement.*

*Compulsory arbitration in the BLA and the ELA.* The Committee welcomes the Government's indication, in response to its previous request, that the proposed amendment to section 210(10) of the BLA that would enable a conciliator to refer an industrial dispute to an arbitrator even if the parties do not agree was finally not included in the amended BLA. The Committee observes, however, that the ELA allows for 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)). *Recalling that compulsory arbitration is only acceptable in relation to 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 or in cases of acute national crisis, the Committee expects that, during the next revision of ELA, the Government will address this issue in a meaningful manner, in consultation with the social partners.*

*Articles 4 and 6. Collective bargaining in the public sector.* The Committee previously requested the Government to clarify what specific categories of workers in the public sector can bargain collectively, to indicate the criteria based on which this right is granted and to provide examples of collective agreements concluded in the public sector. The Committee notes the Government's indication that there are 408 public sector trade unions, including in various sector corporations, city corporations and municipalities, port authorities, secondary and higher secondary education boards, water development boards, energy sectors, various banks and financial institutions, power sectors, jute mills and sugar mills. *Observing that the Government's reply refers to the right to form trade unions without indicating whether, in the various sectors mentioned, these organizations have the right to undertake collective bargaining, the Committee requests the Government to indicate whether this is indeed the case, and if so, to provide examples of collective bargaining agreements concluded in the public sector.*

The Committee further observes the Government's statement that only staff of autonomous organizations have the right to form trade unions and not the officers, and that neither officers nor staff of public sector organizations other than public autonomous organizations have the right to form trade unions. The Committee recalls in this regard that, in accordance with *Article 6*, only public servants engaged in the administration of the State (civil servants in Government ministries and other comparable bodies, and ancillary staff) may be excluded from the scope of the Convention and that a distinction must thus be drawn between, on the one hand, this type of public servants and, on the other hand, all other persons employed by the Government, by public enterprises or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention. *The Committee therefore requests the Government to provide a list of public sector services or entities where collective bargaining is not allowed. For those autonomous public sector organizations where collective bargaining is permitted, the Committee requests the Government to indicate the criteria used to distinguish between staff and officers for the purposes of collective bargaining.*

## Barbados

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

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 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 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: 1967)**

The Committee had noted the comments made by the International Trade Union Confederation (ITUC) in a communication received on 31 August 2014. *The Committee requests once again the Government to provide its comments in this respect.*

*Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination.* The Committee had previously noted that the new Employment Rights Act (ERA) only covered cases of anti-union dismissals (section 27) and limited this protection to employees continuously employed for a period of over one year. The Committee had recalled that the Government had adequate protection against acts of anti-union discrimination which should not be confined to penalizing dismissal on anti-union grounds, but should cover all acts of anti-union discrimination (demotions, transfers and other prejudicial acts) at all stages of the employment relationship, regardless of the employment period, including at the recruitment stage, and had therefore requested the Government to amend the new Act so as to bring it into conformity with the Convention. The Committee notes that the Government reiterates that section 40A of the Trade Union Act provides protection against acts of anti-union discrimination stating that an employer who dismisses a worker or adversely affects the employment or alters the positions of a worker to his prejudice because that worker takes part in trade union activities is guilty of an offence. The Committee welcomes the Government's indication that under the proposed Employment (Prevention and Discrimination) Act, which is currently in an advanced stage of preparation, a person discriminates against another when that person on a ground specified (subsection (2)) creates an exclusion or shows a preference, the intent or effect of which is to subject the other person to any disadvantage, restrictions or other detriment, and that the Government will take immediate steps to include "trade union membership or trade union status" as a ground established in subsection (2). The Government further indicates that under the proposed Act, the Employment Rights Tribunal will have the power to make a range of orders, including paying to the complainant a compensation in an amount that may include exemplary damages. *The Committee trusts that the new legislation will soon be adopted and will ensure adequate protection against all acts of anti-union discrimination. It requests the Government to provide information on any progress made in this respect.*

In its previous comment, the Committee had further noted that while sections 33–37 of the new ERA provided for the possibility of reinstatement, re-engagement and compensation, the maximum amount of compensation awarded to workers who have been employed for less than two years is five-weeks wages, which, depending on the number of years of continuous employment, is increased by between two-and-a-half and three-and-a-half weeks wages for each year of that period (Fifth Schedule). The Committee had considered that the prescribed amounts do not represent sufficiently dissuasive sanctions for anti-union dismissal, and had therefore requested the Government to take the necessary measures to amend the Fifth Schedule of the new ERA so as to bring the compensation amount to an adequate level. The Committee notes the Government's indication that it is proposing an amendment to the ERA that: (i) would allow the Chief Labour Officer to lodge cases before the Employment Rights Tribunal which may include persons employed for less than one year and where anti-union discrimination is being alleged; and (ii) gives power to the Tribunal to order an amount not exceeding 52 weeks' wages. The Committee recalls that the compensation envisaged for anti-union dismissal should: (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 enterprises concerned (it has considered, for example, that while compensation of up to six months' wages may be a deterrent for small and medium-sized enterprises, that is not necessarily the case for highly productive and large enterprises). *The Committee trusts that the Government will take all the necessary measures to amend the ERA in line with the principles set out above, and requests the Government to provide information on any development in relation to the envisaged legislative amendment and its application in practice.*

## **Belarus**

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

#### **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 of the Belarusian Congress of Democratic Trade Unions (BKDP) and of the International Trade Union Confederation (ITUC), received on 31 August 2019 and 1 September 2019, respectively.

The Committee notes the 385th and the 390th reports of the Committee on Freedom of Association on the measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry.

As a general point, the Committee notes that activities aimed at giving effect to the recommendations of the Commission of Inquiry continued in the country in collaboration with the ILO. In this respect, the Committee notes the Government's indication that a training course on international labour standards for judges, lawyers and legal educators that took place in Minsk in June 2017 allowed the participants to increase their knowledge of the practical application of international labour standards. The Committee further notes that a tripartite conference "Tripartism and Social Dialogue in the World of Work" was held in Minsk on 27 February 2019. The Committee recalls that it had previously noted that one

of the outcomes of a tripartite activity on dispute resolution held in 2016 was the common understanding of the need to continue working together towards building a strong and efficient system of dispute resolution, which could handle labour disputes involving individual, collective and trade union matters. The Committee notes with *regret* the BKDP's indication that the work on developing such a mechanism has been neglected completely. ***The Committee requests the Government to provide its comments thereon and invites it to continue to take advantage of ILO technical assistance in this regard.***

*Article 2 of the Convention. Right to establish workers' organizations.* The Committee recalls that in its previous observations, it had urged the Government to consider, within the framework of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (hereinafter, tripartite Council), the measures necessary to ensure that the matter of legal address ceases to be an obstacle to the registration of trade unions in practice. The Committee notes the Government's indication that at present, the requirement to provide confirmation of legal address is not an obstacle to the registration of trade unions and that there were no cases of refusal to register trade unions or unions (associations) of trade unions in 2016, 2018 or the first half of 2019. The Government informs that in 2017, a registration of a union in Minsk was refused due to non-compliance with the procedure for establishing a trade union, and not due to the lack of legal address; the union did not appeal this decision in court. Furthermore, according to the Government, in the period from 2016 to the end of July 2019, there were ten cases of refusal to register trade union organizational structures: seven cases concerned organizational structures of trade unions affiliated to the Federation of Trade Unions of Belarus (FPB) and two cases concerned primary organizations of unions affiliated to the BKDP. Among the latter two, one case concerned a primary trade union of the Belarusian Independent Trade Union (BNP) of workers from a construction company (both the BKDP and the ITUC refer to this case in their observations). The Government indicates that following submission of all the documents required by law, the organization was registered pursuant to a decision of the Soligorsk District Executive Committee of 15 January 2019. Another case concerned a primary organization of the Belarusian Union of Radio and Electronics Workers (REP) and the refusal was due to a repeated failure to submit registration documents; the union did not appeal this decision in court. The Government points out that in this period, registration was granted to 3,779 trade union organizational structures. In short, the above ten cases show that decisions denying registration are rare: only one such case was due to the absence of a legal address and, according to the Government, even this decision was not appealed in court. The Government further indicates that once the identified shortcomings have been rectified, documents for state registration can be resubmitted. Thus, the Government concludes, a refusal to grant registration is not tantamount to prohibiting the establishment of a trade union. While noting this information, the Committee observes that the BKDP and the ITUC refer, in addition, to cases of refusal to register the Free Trade Union of Belarus (SPB) and REP-affiliated trade union structures in Orsha and Bobruisk. ***The Committee requests the Government to provide its comments thereon.***

Regarding the Committee's request to discuss the issue of registration by the tripartite Council, the Committee notes the Government's indication that the agenda for meetings is set on the basis of proposals from the parties and organizations represented on the Council, taking into account the relevance of the issues raised, and with the agreement of the Council's members. To that end, the information should be submitted to the Council's secretariat (the Ministry of Labour and Social Protection) with an explanation as to why that particular issue is problematic and merits consideration by the Council. The Government indicates that in 2016–19, there have been no submissions for discussion of issues relating to the legal address requirement. ***The Committee requests the Government, as a member of the tripartite Council, to submit the Committee's comments on the issue of registration for the Council's consideration at one of its meetings. The Committee requests the Government to inform it of the outcome of the discussion.***

*Articles 3, 5 and 6. Right of workers' organizations, including federations and confederations, to organize their activities. Legislation.* The Committee recalls that the Commission of Inquiry had requested the Government to amend Presidential Decree No. 24 of 28 November 2003 on Receiving and Using Foreign Gratuitous Aid. The Committee further recalls that it had considered that the amendments should be directed at abolishing the sanctions imposed on trade unions (liquidation of an organization) for a single violation of the Decree and at widening the scope of activities for which foreign financial assistance can be used so as to include events organized by trade unions. The Committee notes the Government's indication that Decree No. 24 has been superseded by Presidential Decree No. 5 of 31 August 2015 on Foreign Gratuitous Aid and the ensuing Regulations on the Procedures for the Receipt, Recording, Registration and Use of Foreign Gratuitous Aid, the Monitoring of its Receipt and Intended Use, and the Registration of Humanitarian Programmes. The Committee notes with *regret* that just as previously under Decree No. 24, the foreign gratuitous aid cannot 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 political and mass campaigning work among the population and that a single violation of the Regulation bears the sanction of possible liquidation of the organization.

Further in this connection, the Committee recalls that the Commission of Inquiry had requested the Government to amend the Law on Mass Activities. The Committee recalls that under the Law, which establishes a procedure for mass events, the application to hold an event must be made to the local executive and administrative body. While the decision of that body can be appealed in court, the Law does not set out clear grounds on which a request may be denied. 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. In this context, "violation" includes a temporary cessation of organizational activity or the disruption of traffic, death or physical injury to one or more individuals, or damage exceeding 10,000 times a value to be established on the date of the event. The Committee

had requested the Government to amend the legislation, in particular by abolishing the sanctions imposed on trade unions or trade unionists for a single violation of the Law and 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.

The Committee notes the Government's indication that the Law on Mass Activities was amended on 26 January 2019. The Government indicates that the revised Act sets out a number of additional measures and requirements that need to be complied with by the organizers in order to ensure the law and order and public safety during mass events. The Committee notes with *deep regret* that the Law on Mass Activities was not amended along the lines of its previous requests. It also notes with *concern* the BKDP's allegation that the amendments to the Law were not discussed with the social partners. The Committee also notes the BKDP's indication that among the novelties in the Law is the notification procedure for street action, which applies to mass events to be organized at "permanent places" designated as such by local authorities. Thus, according to the BKDP, the format of an event is imposed on the organizers, as rallies and pickets are possible in the squares designated as "permanent places", but processions and demonstrations are not. ***The Committee requests the Government to provide its comments thereon.***

The Committee notes with *regret* the adoption by the Council of Ministers (pursuant to the Law on Mass Activities) of the Regulations on the procedure of payment for services provided by the internal affairs authorities in respect of protection of public order, expenses related to medical care and cleaning after holding a mass event (Ordinance No. 49, which entered into force on 26 January 2019). The Committee notes that according to the Regulations, once a mass event is authorized, the organizer must conclude contracts with the relevant territory internal affairs bodies, health services facilities and cleaning facilities regarding, respectively, protection of public order, medical and cleaning services. The Regulations provide for the fees in relation to protection of public services as follows: three base units – for an event with the participation of up to ten people; 25 base units – for an event with the participation of 11 to 100 people; 150 base units – for an event with the participation of 101 to 1,000 people; 250 base units – for an event with the participation of more than 1,000 people. The Committee notes that according to the information provided by the BKDP, the current base unit is set at BYN25.5 (US\$12.5). If the event is to take place in an area which is not a "permanent designated area," the above fees are to be multiplied by a coefficient of 1.5. In addition to the above fees, the Regulations provide for the expenses of the specialized bodies (medical and cleaning services) that must be paid by the organizer of the event. According to the Regulation, these shall include: salary of employees engaged in the provision of services taking into account their category, number and time spent in the mass event; mandatory insurance contributions; the cost of supplies and materials, including medicine, medical products, detergents; indirect expenses of specialized bodies; taxes, fees, other obligatory payments to the republican and local budgets provided by law.

Reading these recent provisions alongside those forbidding the use of foreign gratuitous aid for the conduct of mass events (the Regulation adopted pursuant to Decree No. 5), the Committee considers that the capacity for carrying out mass actions would appear to be extremely limited if not inexistent in practice. ***The Committee therefore once again urges the Government, in consultation with the social partners, to amend the Law on Mass Activities and the Regulation adopted pursuant to Decree No. 5 in the very near future and requests the Government to provide information on all measures taken in this respect as soon as possible. The Committee recalls 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. Furthermore, considering that the right to organize public meetings and demonstrations constitutes an important aspect of trade union rights, the Committee requests the Government to take the necessary steps in order to repeal the Ordinance of the Council of Ministers No. 49, which makes the exercise of this right nearly impossible in practice. The Committee requests the Government to provide information on all measures taken to that end and invites the Government to avail itself of ILO technical assistance in this respect.***

*Practice.* The Committee recalls that it had previously expressed its concern at the allegations of repeated refusals to authorize the BKDP, the BNP and the REP to hold demonstrations and public meetings. The Committee had urged the Government, in working together with the above-mentioned organizations, to investigate all of the alleged cases of refusals to authorize the holding of demonstrations and meetings, and to bring to the attention of the relevant authorities the right of workers to participate in peaceful demonstrations and meetings to defend their occupational interests. The Committee had also requested the Government to reply to the BKDP allegations regarding a video posted on YouTube showing the activists of the Women's Network of the Independent Union of Miners (NPG) protesting by the entrance to the NPG office against the raising of the retirement age. The Committee recalls that according to the BKDP, participants were summoned to the Soligorsk police station and charged with a violation of the Administrative Code. On 17 May 2016, the court determined the protests recorded on the video to be an unauthorized picketing, found the participants guilty and imposed a penalty in the form of an administrative warning. Also in May 2016, the Polotsk Court found Mr Victor Stukov and Mr Nikolai Sharakh, trade union activists of the BNP union at a fiberglass enterprise, guilty of participating in unauthorized picketing and imposed fines amounting to €250 and €300, respectively. According to the BKDP, trade unionists were protesting in the city centre against violations of labour legislation at the enterprise and against Mr Sharakh's dismissal.

The Committee notes the Government's detailed comments on these cases. The Government points out that the above-mentioned activists were charged under the Administrative Code not for exercising their right to participate in peaceful

protests to defend their professional interests, but for violating the legislation, i.e. for having organized and held events that had not been agreed upon with the local executive and administrative bodies. The Government further points out that decisions to deny an authorization for a mass event are taken in strict compliance with the law in force and on the basis of a careful analysis of the effect on public order and safety. In 2016–19, the following were the most common reasons to deny an authorization to hold a mass event: the application did not contain the information required by the law; another mass event was being held in the same place at the same time; the event was to take place in a location not allowed for such a purpose; the documents submitted did not indicate the precise location of the event; and the event was announced in the mass media prior to receiving authorization. The Government indicates that when a permission to hold a mass event is not granted, the organizers, having rectified the shortcomings, may re-submit their application. Finally, a decision prohibiting the holding of a mass event may be appealed in court. The Government informs that the BKDP has been able to organize assemblies and demonstrations and refers in this respect to several examples where the permission to hold such events was granted. ***While taking note of this information, the Committee notes the most recent BKDP's allegations that executive authorities in Minsk, Mogilev, Vitebsk, Zhlobin, Borisov, Gomel, Brest, Novopolotsk refused to grant a permission to hold mass events. The Committee requests the Government to provide its detailed comments thereon.***

The Committee notes the BKDP and the ITUC allegations regarding the cases of Messrs Fedynich and Komlik, leaders of the REP union, found guilty, in 2018, of tax evasion and use of foreign funds without officially registering them with the authorities as per the legislation in force. They were sentenced to four years of suspended imprisonment, restriction of movement, a ban on holding senior positions for five years and a fine of BYN47,560 (over US\$22,500). The Committee notes that the particulars of these cases are being considered by the Committee on Freedom of Association in the framework of its examination of the measures taken by the Government to implement the recommendations of the Commission of Inquiry. In this connection, the Committee further notes the BKDP allegation that the equipment seized during searches in the REP and BNP premises have not been returned until now. ***The Committee requests the Government to provide information regarding this allegation.***

***Right to strike.*** The Committee recalls that it had been requesting the Government for a number of years to amend the following sections of the Labour Code as regards the exercise of the right to strike: sections 388(3) and 393, so as to ensure that no legislative limitations can be imposed on the peaceful exercise of the right to strike in the interest of rights and freedoms of other persons (except for cases of acute national crisis, or for public servants exercising authority in the name of the state, or essential services in the strict sense of the term, i.e. only those, the interruption of which, would endanger the life, personal safety or health of the whole or part of the population); 388(4) so as to ensure that national workers' organizations may receive assistance, including financial assistance, from international workers' organizations, even when the purpose is to assist in the exercise of freely chosen industrial action; 390, by repealing the requirement of the notification of strike duration; and 392, so as to ensure that the final determination concerning the minimum service to be provided in the event of disagreement between the parties is made by an independent body and to further ensure that minimum services are not required in all undertakings but only in essential services, public services of fundamental importance, situations in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population, or to ensure the safe operation of necessary facilities. The Committee ***regrets*** that once again no information has been provided by the Government on the measures taken to amend the above-mentioned provisions affecting the right of workers' organizations to organize their activities in full freedom. ***The Committee therefore encourages the Government to take measures to revise these provisions, in consultation with the social partners, and to provide information on all measures taken or envisaged to that end. The Committee notes the BKDP allegations of violation of the right to strike in practice and requests the Government to provide its reply thereon.***

While duly recognizing the efforts made by the Government, the Committee emphasizes that much remains to be done in order to implement in full all of the Commission of Inquiry's recommendations. ***It encourages the Government to pursue its efforts in this respect and expects that the Government, with the assistance of the ILO and in consultation with the social partners, will take the necessary steps to fully implement all outstanding recommendations without further delay. Noting the BKDP alleged lack of consultations in respect of the adoption of new pieces of legislation affecting rights and interest of workers, the Committee requests the Government to take the necessary measures in order to further strengthen the role of the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere, which should, as its title indicates, play a role of a platform where consultations on the legislation affecting rights and interests of the social partners can take place.***

*[The Government is asked to reply in full to the present comments in 2020.]*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1956)**

#### **Follow-up to the 2004 recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO**

The Committee notes of the observations of the Belarusian Congress of Democratic Trade Unions (BKDP) received on 30 August 2019 and alleging violations of the Convention in practice. The Committee examines them below.

The Committee notes the 385th and the 390th reports of the Committee on Freedom of Association on the measures taken by the Government of the Republic of Belarus to implement the recommendations of the Commission of Inquiry.

*Articles 1–3 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* The Committee recalls that it had previously requested the Government to reply to the BKDP observations containing allegations of dismissals of trade unionists Ms Oksana Kernozhitskaya and Mr Mikhail Soshko. The Committee notes the Government's indication that these workers were not dismissed, rather, their contract of employment has expired. The Government explains that the termination of employment upon the expiry of a fixed-term employment contract cannot be considered dismissal by the employer. The Government further explains that under the law, the employer is not obliged to justify his or her unwillingness to extend an employment relationship upon the expiry of a contract. Thus, according to the Government, the expiry of a contract is already in itself sufficient grounds for its termination; there are no legal means of compelling an employer to conclude a new contract with a worker. The Committee considers that the legal framework as described by the Government does not currently provide for an adequate protection against non-renewal of a contract for anti-union reasons. It recalls in this respect that the non-renewal of a contract for anti-union reasons constitutes a prejudicial act within the meaning of *Article 1* of the Convention. It also recalls that since inadequate safeguards against acts of anti-union discrimination, including against non-renewal of contracts for anti-union reasons, may lead to the actual disappearance of primary level trade unions, composed only of workers in an undertaking, additional measures should be taken to ensure fuller protection for leaders and members of trade unions, against any such acts. As one of the additional measures to ensure the effective protection against anti-union discrimination, the adoption of provision for laying upon the employer, in the case of any alleged discriminatory dismissal or non-renewal of contract, the burden of proving that such action was in fact justified. ***The Committee requests the Government to take, in consultation with the social partners, the necessary measures in order to adopt specific legislative provisions affording an adequate protection against cases of non-renewal of contracts for anti-union reasons. It requests the Government to provide information on all steps taken to that end.***

The Committee recalls that it had also noted the BKDP allegation that the management of the Belaruskali promoted the primary trade union affiliated to the Federation of Trade Unions of Belarus (FPB) at the expense of the BKDP-affiliated union and pressured the members of the latter to leave the union. The Committee notes the Government's explanation that primary organizations of trade unions in Belarus are affiliated to either the FPB or the BKDP. A number of enterprises have several primary trade union organizations. At Belaruskali, there are two primary trade union organizations: the primary organization of the Belarusian Union of Chemical, Mining and Oil Industries Workers (Belkhimprofsoyuz), affiliated to the FPB, and the Independent Trade Union of Miners (NPG) of Belaruskali, which is a primary organization of the Belarusian Independent Trade Union (BNP), affiliated to the BKDP. The presence in one enterprise of the organizational structures of two different trade unions naturally gives rise to competition for members. The trade unions use various methods and means to strengthen their own position, retain existing members and attract new ones. As provisions of Belkhimprofsoyuz' by-laws do not permit simultaneous membership in two trade unions, the trade union committee of the Belkhimprofsoyuz primary trade union organization at the undertaking decided to bring its structure into line with the existing rules and to take steps to eliminate dual trade union membership. To that end, it proposed to workers with dual membership (690 workers) to choose between the two unions. According to the Government, an overwhelming majority of workers decided in favour of Belkhimprofsoyuz primary trade union organization; as a result, the BNP-affiliated union membership fell down. Thus, the Government concludes that the sharp fall in membership of the primary trade union was mainly a consequence of the choice made by workers. The Government also indicates that retirement of workers as well as the termination of employment was also a factor in the decline of the union membership. The Government points out that the tripartite Council for the Improvement of Legislation in the Social and Labour Sphere (hereinafter, tripartite Council) received no information about specific instances of members of the BNP primary trade union organization being pressured by the enterprise management to leave the BKDP-affiliated trade union. Workers who believe that they have been subject to anti-union discrimination or pressure by may apply to a court for measures to end the discrimination.

The Committee notes the new allegations submitted by the BKDP regarding interference by enterprise managers in trade union affairs. According to the BKDP, enterprise managers, for the most part, are still members of the FPB. It alleges, in addition, that at most enterprises, employees, when hired, are first sent to the trade union committee, where they are urged to write an application for affiliation to the official trade union to get a job. A citizen is thus deprived of the right to freely choose a union and members of independent trade unions are forced to quit their union organizations. The BKDP refers, in particular, to the situation at the above-mentioned Belaruskali where the director general has joined the Belkhimprofsoyuz to become its official and head the anti-union campaign against the independent union. The BKDP alleges that as a result, between 1 January and 1 April 2019, 596 workers were forced to renounce their NPG membership. The BKDP further refers to a similar situation at the Remmontazhstroy company where the independent union lost 180 members within the same period. The BKDP further alleges threats of termination of contract suffered by Mr Drazhenko, the head of primary trade union at the Borisov "Autohydraulic booster" plant for his active trade union position. ***The Committee requests the Government to provide its detailed comments on the above.***

The Committee had previously welcomed the Government's indication that a training course on international labour standards for judges, lawyers and legal educators was to take place with ILO support in 2017 and requested the Government to provide information on the outcome of this activity. The Committee notes the Government's indication that this course allowed judges, lawyers and legal educators to increase their knowledge of the practical application of international labour standards, which they are now applying in their professional work.

In this connection, the Committee recalls that it had also expected that the public authorities, in particular the Ministry of Justice, the Office of the Prosecutor-General and the judiciary, together with the social partners, as well as other stakeholders (for example, the Belarusian National Bar Association) would continue working together towards building a strong and efficient system of dispute resolution which could deal with labour disputes involving individual, collective and trade union matters. The Committee notes with *regret* the BKDP indication that the work on developing an effective mechanism for resolving non-judicial disputes which could deal with labour disputes, including individual, collective and trade union disputes, is neglected completely. *The Committee requests the Government to provide its comments thereon. The Committee invites the Government to continue to take advantage of ILO technical assistance in this regard.*

*Article 4. Right to collective bargaining.* The Committee had previously noted that a collective bargaining procedure at enterprises with more than one trade union had been agreed upon and included in clause 45 of the General Agreement between the Government and the national organizations of employers and trade unions for 2016–18. Pursuant to this provision, a single body comprising representatives of all unions active at an enterprise would negotiate a collective agreement to which all trade unions could become a party. The Committee notes with *interest* that the same provision is now included in the General Agreement for 2019–2021 (clause 49).

The Committee recalls the BKDP allegation that this procedure was not respected by the management of a glass fibre company in Polotsk, an enterprise producing tractor parts in Bobruisk and a company producing tractors in Minsk. The Committee notes the Government's indication that as regard the first enterprise, the primary trade union of the Belarusian Free Trade Union (SPB) did not name any representatives for the inclusion in the collective bargaining committee. The Government points out that the collective agreement for 2014–17 applied to all of the enterprise's workers. On 28 January 2016, the enterprise received a written request for collective bargaining from the SPB primary organization. Pursuant to the legislation in force, it was requested to confirm that it had members at the enterprise and that it was authorized to represent their interests. As no such confirmation followed, the union could not initiate collective bargaining process. The Government indicates that the latest collective agreement was concluded for 2017–20 by representatives of the primary organization of Belkhimprofsoyuz. As regards Bobruisk plant, the Government indicates that a collective agreement was concluded on 26 March 2016 by the chairperson of the primary organization of the Belarusian Automobile and Agricultural Machinery Workers Union. Representatives of the SPB primary trade union did not participate in the work of the committee established for the purposes of collective bargaining, as the competence of this primary organization had not been confirmed in the proper manner. As regards the Minsk plant, the Government indicates that according to the enterprise management, neither the Belarusian Union of Radio and Electronics Workers (REP), nor the trade union group established by this union in February 2016, stated that they wished to join the collective agreement concluded at the enterprise for 2014–16, and no documents were provided confirming that it represented workers at the enterprise.

The Committee notes that the BKDP alleges several other instances where clause 45 of the previous General Agreement was not respected. In this connection, the Committee notes the Government's indication that taking into account the complaints received from the BKDP, the issue of compliance with the procedure for collective bargaining where more than one trade union exist, as specified in the General Agreement for 2016–18, has been examined a number of times within the framework of the tripartite Council. The tripartite Council drew the attention of all social partners to the need to comply with clause 45 of the General Agreement. Upon the proposal by the BKDP, this issue was once again examined on 6 March 2018. On that occasion, the tripartite Council requested both the employer and the worker members to provide assistance and to carry out work among its member associations to explain and clarify the issues arising from clause 45 of the General Agreement for 2016–18. The Council concluded that clause 45 applies exclusively to representatives of trade union organizations that are actually operating at an organization (enterprise) and that have members from among the workers of that organization (enterprise). *The Committee trusts that any issues of compliance with the General Agreement will continue to be brought to the attention of the Council where they can be examined in the tripartite setting.*

The Committee notes the Government's indication that the tripartite Council operates effectively in Belarus and is the main forum for stakeholders to discuss issues relating to the implementation of the Commission of Inquiry's recommendations. The Council also decides on proposals of areas of collaboration with the ILO. The Government informs in this respect, that on the basis of such proposals, a meeting of the tripartite Council held with the participation of the ILO representatives in February 2019, discussed the issue of collective bargaining at various levels. It was agreed that the work in this respect would continue with the ILO support with the view to improving legislation and practice in this area. *The Committee requests the Government to provide information on all developments in this regard.*

## Belize

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

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. Compulsory arbitration.* The Committee recalls that in its previous comments it had requested the Government to amend the Settlement of Disputes in Essential Services Act 1939 (SDESA), as amended on several occasions, which empowers the authorities to refer a collective dispute to compulsory arbitration, to prohibit a strike or to terminate a strike

in services that cannot be considered essential in the strict sense of the term, including the banking sector, civil aviation, port authority, postal services, social security scheme and the petroleum sector. The Committee notes with *regret* from the information provided by the Government that while the Schedule to the SDESA was amended twice in 2015, the long-standing comments of the Committee were not addressed. Instead, the two amendments expanded the field of application of the SDESA and added to its Schedule the “port services involving the loading or unloading of a ship’s cargo”, which are also services that do not constitute 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 of part of the population. *The Committee requests the Government to amend the Schedule to the SDESA so as to permit compulsory arbitration or a prohibition on strikes only in services that are essential in the strict sense of the term, and to provide information on all progress made 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: 1983)**

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

The Committee had noted the observations of the International Trade Union Confederation (ITUC) in 2014. The Committee notes with *regret* that the Government has not yet replied to these observations and requests it once again to provide its comments in this respect.

*Articles 1 and 3 of the Convention. Protection against acts of anti-union discrimination.* In its previous comments, following the 2011 ITUC observations regarding those two sectors, the Committee had requested the Government to provide statistics on the number of acts of anti-union discrimination that are reported to the authorities in the banana plantation sector and in export processing zones and on the outcomes of the denunciations in this respect. The Committee notes that the Government indicates that during the reporting period (July 2013 to June 2017) no acts of anti-union discrimination were denounced to the authorities in these sectors. *Highlighting that the absence of anti-union discrimination complaints may be due to reasons other than an absence of anti-union discrimination acts, and recalling the specific allegations raised by the ITUC, the Committee requests the Government to take the necessary measures to ensure that, on the one hand the competent authorities take fully into account in their control and prevention activities the issue of anti-union discrimination, and that on the other hand, the workers in the country are fully informed of their rights regarding this issue. The Committee requests the Government to provide information on measures taken in this regard, as well as any statistics concerning the anti-union discrimination acts reported to the authorities.*

*Article 4. Promotion of collective bargaining.* In its previous comments, the Committee had requested the Government to take measures to amend section 27(2) of the Trade Unions and Employers’ Organizations (Registration, Recognition and Status) Act (TUEOA), which provides that a trade union may be certified as the bargaining agent if it is supported by at least 51 per cent of employees, as this requirement of an absolute majority may give rise to problems given that, if this percentage is not attained, the majority union would be denied the possibility of bargaining. In its latest comment, the Committee noted the Government’s indication that: (i) the Tripartite Body and the Labour Advisory Board had engaged in discussions on a possible amendment to the Act; and (ii) based on these consultations, it had been recommended to reduce to 20 per cent the trade union membership threshold required to trigger a poll, while retaining the requirement of a 51 per cent approval of those employees voting and to require a turnout at the poll of at least 40 per cent of the bargaining unit. The Committee notes that the Government indicates that section 27(2) of the TUEOA has not been amended but that discussion continues among the social partners in this regard. *The Committee requests the Government to continue promoting social dialogue in order to bring section 27(2) of the TUEOA into conformity with the Convention and to provide information on any developments in this respect. The Committee reminds the Government that it may avail itself of technical assistance from the Office.*

*Promotion of collective bargaining in practice.* *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.*

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

## **Benin**

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

The Committee notes the observations of the General Confederation of Workers of Benin (CGTB) dated 3 April 2019 and those of the Trade Union Confederation of Workers of Benin (CSTB) dated 12 June 2019, regarding Act No. 2018-34 amending and supplementing Act No. 2001-09 of 21 June 2002 on the exercise of the right to strike, which refer to the matters examined below by the Committee. The Committee also notes the response of the Government in this respect.

*Article 2 of the Convention. Right to establish trade unions without previous authorization.* The Committee has, on numerous occasions, insisted upon the need to amend section 83 of the Labour Code, which requires trade unions to deposit their by-laws with numerous authorities, in particular the Ministry of the Interior, in order to obtain legal status. The Government reiterates that the Committee’s recommendations have been taken into account in the most recent version of the draft revised Labour Code, the revision of which is ongoing. *Observing that the Government has been referring to amending this legislation for several years, the Committee firmly expects that the revision process of the Labour Code will be concluded rapidly and that the Government will very shortly report the amendment of section 83 of the Labour Code. The Committee requests the Government to provide a copy of the revised Labour Code once it is adopted.* The Committee also notes the information provided by the Government indicating that Act No. 98-015 of 12 May 1998, issuing the general conditions of seafarers, is still in force and the right to organize is thereby recognized for all seafarers.

*Article 3. Right of workers' organizations to organize their activities.* The Committee notes the below provisions of Act No. 2001-09 on the exercise of the right to strike, as amended by Act No. 2018-34.

*Scope of the Act in terms of the persons covered.* The Committee notes that military personnel, paramilitary personnel (police, customs, water, forestry, hunting, etc.) and healthcare staff may not exercise the right to strike (new section 2). In this regard, the Committee wishes to recall that it considers that States may restrict or prohibit the right to strike of public servants "exercising authority in the name of the State", for example, civil servants in government ministries and other comparable bodies, and ancillary staff and that, when they are not exercising authority in the name of the State, they should benefit from the right to strike without being liable to sanctions, except in the case that the maintenance of a minimum service may be envisaged. This principle should also apply to civilian personnel in military institutions when they are not engaged in the provision of essential services in the strict sense of the term (see the 2012 General Survey on the fundamental Conventions, paragraphs 130 and 131).

*Requisitioning in the event of a strike.* The Committee notes that public service employees and employees of public, semi-public or private institutions of an essential nature, whose stoppage of work would cause serious damage to peace, security, justice, the health of the population or the public finances of the State, may be requisitioned in the event of a strike (new section 17). Taking into account the general wording of the criteria set out in section 17, the Committee recalls that it is desirable to limit powers of requisitioning to cases in which the right to strike may be limited, or even prohibited, namely: (i) in the public service for public servants exercising authority in the name of the State; (ii) in essential services in the strict sense of the term; and (iii) in the case of an acute national or local crisis (see the 2012 General Survey, paragraph 151).

*Duration of the strike.* The Committee notes that the exercise of the right to strike is subject to certain conditions of duration. Strikes may not exceed ten days in any one year; seven days in a six-month period; and two days in the same month. Regardless of the duration, the stoppage of work during a day shall be considered as a full day of strike action (new section 13). The Committee considers that workers and their organizations should be able to call a strike for an indefinite period if they so wish (see the 2012 General Survey, paragraph 146).

*Sympathy strikes.* The Committee notes that sympathy strikes are prohibited (new section 2). The Committee recalls that it considers that a general prohibition of this form of strike action could lead to abuse, particularly in the context of globalization characterized by increasing interdependence and the internationalization of production, and that workers should be able to take such action, provided that the initial strike they are supporting is itself lawful (see the 2012 General Survey, paragraph 125).

***In light of the foregoing, the Committee urges the Government to take the necessary measures in the near future to amend the provisions in question of Act No. 2001-09 on the exercise of the right to strike, as amended by Act No. 2018-34, and to ensure that they give full effect to the provisions of the Convention with regard to the above.***

## Plurinational State of Bolivia

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1965)***

In its previous comments, the Committee noted the observations of the International Trade Union Confederation (ITUC) of 30 August 2013, referring to a confrontation between the police and trade union demonstrators, which resulted in seven persons being wounded and 37 arrested and prosecuted, and requested the Government to provide information on the investigations and judicial procedures conducted. ***In the absence of a reply in this respect, the Committee reiterates its previous request.***

*Articles 2, 3 and 4 of the Convention. Legislative issues.* The Committee recalls that, for many years, it has been requesting the Government to bring certain legislative texts into conformity with the Convention.

- With regard to the possibility of dissolving trade union organizations by administrative authority, the Committee notes the Government's indication that, while section 129 of Regulatory Decree No. 224 (of 23 August 1943) of the General Labour Act establishes the grounds for and forms of the dissolution of trade union organizations by the Executive Branch, it has not been applicable since the ratification of the Convention, as *Article 4* of the Convention takes precedence over the Decree. In this respect, the Committee recalls the need to ensure the conformity of the legislative provisions with the Convention, even when they are in abeyance or are no longer applied in practice.
- With regard to the prohibition on general strikes and sympathy strikes, and the imposition of penalties on the instigators or promoters of illegal strikes, the Committee notes that, in its previous comments, it noted the repeal of section 234 of the Penal Code, which criminalized the promotion of any lock-out, protest or strike declared to be illegal by the labour authorities, and requested the Government to indicate whether the reform of the Penal Code had led to the repeal of sections 1 and 2 of Legislative Decree No. 2565 (of June 1951), prohibiting and criminalizing illegal strikes. The Committee notes the Government's reply indicating that this Legislative Decree has not been expressly repealed and once again recalls the need to repeal these provisions.

The Committee also notes that the Government has not provided information in relation to the other legislative matters that it has been commenting on for many years:

- the exclusion of agricultural workers from the scope of the General Labour Act of 1942 (section 1 of the General Labour Act, and its Regulatory Decree No. 224 of 23 August 1943), which implies their exclusion from the guarantees afforded by the Convention;
- the denial of the right to organize of public servants (section 104 of the General Labour Act);
- the excessive requirement of 50 per cent of the workers in an enterprise to establish a trade union, in the case of an industrial union (section 103 of the General Labour Act);
- the broad powers of supervision conferred upon the labour inspectorate over trade union activities (section 101 of the General Labour Act, which provides that labour inspectors shall attend the deliberations of trade unions and monitor their activities); in this regard, the Committee previously noted the Government's indications that the conduct of labour inspectors must be in line with article 51 of the Political Constitution of the State of 2009, that is with deep-rooted respect for the principles of trade union unity, trade union democracy and the ideological and organizational independence that shall be enjoyed by all trade unions;
- the requirement of a three-quarters majority of the workers to call a strike (section 114 of the General Labour Act and section 159 of the Regulatory Decree); the illegality of strikes in the banking sector (section 1(c) of Supreme Decree No. 1958 of 1950); and the possibility of imposing compulsory arbitration by decision of the executive authorities to bring an end to a strike, including in services other than those that are essential in the strict sense of the term (section 113 of the General Labour Act); and
- the requirement that trade union officers must be of Bolivian nationality, literate, over 21 years of age (sections 5 and 7 of Legislative Decree No. 2565 and section 138 of Regulatory Decree No. 224 of 23 August 1943), and be a permanent employee of the enterprise (sections 6(c) and 7 of Legislative Decree No. 2565), and the power of the authorities, in certain circumstances, to disregard ex officio the appointment of union leaders and to order the restructuring of the boards of unions or federations, which are incompatible with the right of workers' organizations to freely elect their representatives.

***Recalling that the above provisions are incompatible with the right of workers, without distinction whatsoever, to establish and join organizations, and for those organizations to organize their activities, formulate their programmes and elect their representatives in full freedom, the Committee hopes that the Government will adopt the necessary measures to amend or repeal these provisions with a view to ensuring conformity with the Convention. The Committee requests the Government to keep it informed in this regard.***

The Committee recalls that, in its 2016 comments, the Government indicated that work was being carried out together with the Bolivarian Workers' Confederation on the drafting of a new Labour Code and a preliminary draft of new legislation governing public servants. The Committee notes the Government's indications that it will continue to work towards the adoption of this legislation. ***Regretting the absence of progress in this respect, the Committee expresses the firm hope that the new legislation governing public servants and the new Labour Code will be adopted in the very near future and that, taking into account the Committee's comments, they will be in full conformity with the provisions of the Convention. The Committee requests the Government to report any developments in this respect and recalls once again that, if it so wishes, it may have recourse to ILO technical assistance.***

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1973)***

The Committee notes the observations of the International Organisation of Employers (IOE) and the Confederation of Private Employers of Bolivia (CEPB), received on 3 September 2019. The Committee notes that the aforementioned organizations allege that the Government is violating the principle of free and voluntary negotiation by imposing the obligation on employers to negotiate and sign a wage agreement which implements the wage increase fixed unilaterally by the executive authority, and to do this within a fixed period of time or otherwise incur a fine. ***The Committee requests the Government to send its comments on this matter.***

*Articles 1, 2 and 4 of the Convention. Legislative issues.* The Committee recalls that it has been referring for many years in its comments to the following matters relating to *Articles 1, 2 and 4* of the Convention:

- the need to adjust the amount of fines (the amount of which ranges from 1,000–5,000 Bolivian bolivianos) as envisaged in Act No. 38 of 7 February 1944, in order to make them a sufficient deterrent against possible acts of anti-union discrimination or interference; and
- the need to guarantee the right to collective bargaining of public servants not engaged in the administration of the State and agricultural workers (the Constitution already does so, but the General Labour Act has not been amended accordingly).

In its previous comments, the Committee noted the Government's indication that: (i) the issue of fines had been discussed with the Bolivian Workers' Federation (COB) at round-table meetings; (ii) with regard to the exclusion of public servants not engaged in the administration of the State, a draft new Civil Service Act had been drawn up; and (iii) with regard to the exclusion of agricultural workers, work was also being carried out on drafting a new Labour Code. The

Committee notes the Government's indication that work is ongoing with regard to the above-mentioned issues. *Noting with regret the lack of progress in this regard, the Committee firmly hopes that the new Civil Service Act and the new Labour Code will be adopted in the very near future and that, taking account of the Committee's comments, they will be in full conformity with the provisions of the Convention. The Committee requests the Government to provide information on any developments in this regard and once again reminds it that it may request technical assistance from the Office, if it wishes.*

*Application of the Convention in practice.* In its last direct request, the Committee asked the Government to provide full statistical data on the number of collective agreements concluded in the country, with an indication of the sectors and the number of workers covered. *Observing that the information supplied by the Government once again refers to the number of collective agreements concluded in the different cities of the country, without indicating whether these are public or private sector agreements, or the number of workers covered by them, the Committee expresses the hope that the Government will be able to collect the statistics in question in the near future and requests it to send them as soon as they are available.*

## Bosnia and Herzegovina

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)**

The Committee takes note of the Government's reply to the 2016 ITUC observations.

*Article 2 of the Convention. Scope of the Convention.* In its previous comment, on the basis of section 6 of the Labour Act of the Federation of Bosnia and Herzegovina, 2016 (the FBiH Labour Act), section 5 of the Labour Act of the Republika Srpska, 2016 (the RS Labour Act) and section 2(5) of the Labour Act of the Brčko District of Bosnia and Herzegovina, 2006 (the BD Labour Act), the Committee requested the Government to indicate whether specific categories of workers – workers without an employment contract, domestic workers, workers in the informal economy and self-employed workers – enjoy, in law and practice, the rights guaranteed by the Convention, and if not, to take the necessary measures to amend the relevant labour legislation in this regard. The Committee notes the Government's indication that: (i) in the Federation of Bosnia and Herzegovina, no measures have been taken in order to expand the right to organize to persons outside the definition of worker (natural person employed on the basis of an employment contract – section 6 of the FBiH Labour Act); and (ii) in Republika Srpska, the legislation makes a distinction between trade unions and all other types of formal or informal associations of workers or citizens: all persons having the status of workers under section 5 of the RS Labour Act can form trade unions, whereas the persons who do not have the status of a worker formally or legally can establish organizations, by virtue of the Act on Associations and Foundations of the Republika Srpska, 2001 (the RS Act on Associations and Foundations) with a view to improving their position and protecting their interests, thus exercising the rights guaranteed by the Convention. The Committee observes, however, that the RS Act on Associations and Foundations does not provide the same guarantees to workers in terms of the right to organize and associated rights, and that both in the Federation of Bosnia and Herzegovina and in the Republika Srpska, specific categories of workers are thus not covered by all the guarantees of the Convention. The Committee notes that no information has been provided in respect of this issue in the Brčko District. The Committee further understands from the information provided by the Government under this Convention and the Right of Association (Agriculture) Convention, 1921 (No. 11), that the distinction between employees, who benefit from the rights granted by the Convention, and other workers is also applicable to the agricultural sector. *Recalling that the right to organize should be guaranteed to all workers without distinction or discrimination of any kind, including to workers without an employment contract, domestic workers, agricultural workers, workers in the informal economy and self-employed workers, the Committee encourages the Government to revise the relevant legislation in the three entities to ensure that the above categories of workers enjoy, in law and in practice, all the rights guaranteed by the Convention.*

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

## Botswana

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1997)**

The Committee notes the Government's reply to the observations made by the International Trade Union Confederation (ITUC) and the Trainers and Allied Workers Union (TAWU) in 2013 and 2014.

*Legislative developments.* The Committee recalls that, following the recommendations made by the Conference Committee on the Application of Standards (Conference Committee) in 2017 and 2018: (i) the Government had embarked on a labour law review process; (ii) a tripartite Labour Law Review Committee (LLRC) was established; and (iii) the LLRC decided to focus the review on the Employment Act and the Trade Unions and Employers Organisations (TUEO) Act, the Public Service Act of 2008 (PSA) and the Trade Disputes Act of 2016 (TDA). In its last observation, the Committee had noted that both the Government and the Botswana Federation of Trade Unions (BFTU) had indicated that the work by the

LLRC was ongoing and that progress was being made with respect to the implementation of the Conference Committee's recommendations. The Committee had also noted the Government's indication that, given that a review of the list of essential services was of critical importance to workers, a task team had been formed to review such list under section 46 of the TDA.

In its last report, the Government indicates that, while the labour law review is still ongoing, on 8 August 2019, the Parliament passed the TDA (Amendment) Act 2019, which amends the list of the essential services. The Committee notes with *satisfaction* that, in line with its recommendations, the following services have been deleted from the list of essential services: 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; public veterinary services; and services necessary to the operation of any of these services.

The Committee takes note that, accordingly, the list of essential services under section 46 of the TDA (Amendment) Act 2019 contains the following services: air traffic control services; fire services; the provision of food to pupils of school age and the cleaning of schools; electrical services (electricity teams for generation, transmission and distribution); water and sanitation services; and health services as well as transport and telecommunication services required for the provision of any of the previously mentioned services. The Committee notes the Government's indication that such ancillary transport and telecommunication services have been included in light of the particular circumstances prevailing in the country and considering, for instance, the need for ambulances or the services of operators who take note and transmit the details of patients in cases of accidents for paramedics to attend to the scene.

The Committee recalls that, in its previous comments, it had also requested the Government to take the following legislative measures:

- amend section 2(1)(iv) of the TUEO Act and section 2(11)(iv) of the TDA, which exclude employees of the prison service from their scope of application, as well as section 35 of the Prison Act, which prohibits members of the prison service from becoming members of a trade union or anybody affiliated to a trade union. The Committee notes that the Government indicates that while it considers that prison staff perform a security function, the LLRC with ILO assistance is engaging the relevant stakeholders on this matter;
- amend section 43 of the TUEO Act, which provides for inspection of accounts, books and documents of a trade union by the Registrar at "any reasonable time". The Committee notes the Government's indication that this matter is being considered in the labour law review process;
- amend section 48B(1) of the TUEO Act, which grants certain facilities (such as access to premises or representation of members in case of complaint, etc.) only to unions representing at least one third of the employees in the enterprise. The Committee notes the Government's indication that this matter is being considered in the labour law review process.

*Trusting that all pending matters in relation to the above-mentioned Acts will be addressed in the framework of the ongoing labour law review process, the Committee urges the Government to take measures to ensure that such Acts are amended, in consultation with the social partners, so as to bring them into full conformity with the Convention. The Committee requests the Government to continue providing information on any progress achieved in this regard and to provide a copy of the amended Acts once adopted.*

The Committee had previously taken note that the labour law review process had been extended to include the PSA and had requested the Government to provide information on the progress made in this regard. *Noting that the Government has not provided information in this respect, the Committee reiterates its previous request to the Government to provide information on the progress made in the review of the PSA and to provide a copy of the amended Act, once adopted.*

*The Committee reminds the Government that it may continue to avail itself of technical assistance from the ILO with respect to all issues raised in its comments.*

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: 1997)**

*Legislative issues.* The Committee recalls that for many years it has been requesting the Government to take the following legislative measures:

- amend section 2 of the Trade Disputes Act (TDA), section 2 of the Trade Union and Employers' Organizations (TUEO Act), and section 35 of the Prisons Act so as to ensure that prison staff are afforded all the guarantees provided under the Convention;
- adopt specific legislative provisions ensuring that all union committee members, including those of unregistered trade unions, enjoy an adequate protection against anti-union discrimination;
- adopt specific legislative provisions ensuring adequate protection against acts of interference by employers coupled with effective and sufficiently dissuasive sanctions;

- repeal section 35(1)(b) of the TDA, which permits an employer or employers’ organization to apply to the Commissioner to withdraw the recognition granted to a trade union on the grounds that the trade union refuses to negotiate in good faith with the employer;
- amend section 20(3) of the TDA (this section read together with section 18(1)(a) and (e) allows the Industrial Court to refer a trade dispute to arbitration, including where only one of the parties made an urgent appeal to the Court for determination of the dispute) so as to ensure that the recourse to compulsory arbitration does not affect the promotion of collective bargaining;
- take the necessary legislative measures so as to ensure that if no union reaches the required threshold to be recognized as a bargaining agent, i.e., one third of the employees in a bargaining unit (section 48 of the TUEO Act read with section 32 of the TDA), the existing unions are given the possibility, jointly or separately, to bargain collectively, at least on behalf of their own members; and
- take the necessary legislative measures so as to ensure that the limitation imposed in the Public Service Act on the scope of collective bargaining for public sector workers not engaged in the administration of the State will fully comply with the Convention.

The Committee had previously expressed the hope that the abovementioned legislative measures would be taken in the framework of the ongoing labour legislation review process to ensure the full conformity of the abovementioned Acts with the Convention. The Committee notes that the Government indicates that the Committee’s comments and concerns have been considered in the ongoing labour legislation review process which is being conducted with the assistance of the Office. It also notes the Government’s indication that on 8 August 2019, the Parliament passed the TDA (Amendment) Act 2019. The Committee observes, however, that while the said Act refers to issues related to the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), it does not address the questions raised by the Committee in the present comment. ***The Committee therefore recalls its previous request to the Government and expresses its firm hope that the necessary measures will be taken in the framework of the ongoing labour legislation review process so as to ensure the full conformity of the abovementioned Acts with the Convention. The Committee requests the Government to provide information on the progress made in this respect.***

*Article 4 of the Convention. Collective bargaining in practice.* The Committee recalls that it has previously requested the Government to reply to observations made by the Trainers and Allied Workers Union (TAWU) in 2013 concerning violations of the right to collective bargaining in practice. While noting that the Government has not provided a reply to the said allegations, the Committee observes, from the information provided in the report, that out of the 40 collective agreements concluded between 2017 and 2019, three were negotiated by the TAWU. The Committee further notes that the 40 collective agreements were negotiated in a broad variety of sectors, including mining, retail, education, health, hotel, communication and services. ***The Committee requests the Government to continue to provide information on the number of collective agreements signed and in force in the country and to indicate the sectors and the number of workers covered.***

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

### **Labour Relations (Public Service) Convention, 1978 (No. 151) (ratification: 1997)**

*Article 1 of the Convention. Application of the Convention to prison staff.* In its previous comments, the Committee had recalled that the Convention applies to the prison service and that the exception contained in *Article 1(3)* of the Convention only applies to the armed forces and the police. The Committee had requested the Government to amend the relevant legislation to ensure that prison officers enjoy the rights enshrined in the Convention. While reaffirming the full application of the present Convention to prison staff, the Committee refers to the most recent comments concerning the collective rights of this category of workers it has made under 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).

*Article 5. Protection against acts of interference.* In its previous comments, the Committee had noted that the legislation did not ensure adequate protection to public employees’ organizations against acts of interference by public authorities in their establishment, functioning or administration. The Committee notes the Government’s indication that the Public Service Act of 2008 is part of the ongoing labour law review. ***The Committee firmly expects that the necessary measures will be taken in the framework of the ongoing labour review process so as to ensure that the legislation adequately protects public employees’ organizations against acts of interference by public authorities. It requests the Government to provide information on the progress made in this respect.***

*Application of the Convention in practice.* The Committee notes that, in reply to previous observations of the International Trade Union Confederation (ITUC) concerning anti-union discrimination, refusal of union recognition and restrictions to collective bargaining in practice, the Government indicates that there is no persecution of trade union leaders and that the eight public sector unions that exist in the country have successfully negotiated with the Government salary increases for their respective bargaining units for 2019–20 and 2020–21 financial years.

## Brazil

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

The Committee notes the following observations relating to matters examined by the Committee in the present comment: (i) the observations of the Single Confederation of Workers (CUT), received on 20 May 2019; (ii) the joint observations of the International Trade Union Confederation (ITUC), the Building and Wood Workers International (BWI), Education International (EI), IndustriALL Global Union (IndustriALL), the International Transport Workers' Federation (ITF), the International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF), Public Services International (PSI) and UNI Global Union, received on 1 September 2019; (iii) the observations of the National Confederation of Industry (CNI) and the National Confederation of Transport (CNT), both received on 1 September 2019; (iv) the observations of the New Workers' Trade Union Confederation (NCST), received on 10 September 2019; and (v) the joint observations of the CUT and ITUC received on 18 September 2019.

The Committee also notes the observations of the International Organisation of Employers (IOE), received on 30 August 2019, containing the interventions made by employers during the Committee on the Application of Standards of the International Labour Conference in 2019 (hereinafter the Conference Committee).

### **Follow-up to the conclusions of the Committee on the Application of Standards** **(International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussions in the Conference Committee in June 2019 on the application of the Convention by Brazil. The Committee notes that the Conference Committee requested the Government to: (i) continue to examine, in cooperation and consultation with the most representative employers' and workers' organizations, the impact of the reforms and to decide if appropriate adaptations are needed; and (ii) prepare, in consultation with the most representative employers' and workers' organizations, a report to be submitted to the Committee of Experts in accordance with the regular reporting cycle.

*Article 1 of the Convention. Adequate protection against anti-union discrimination.* In its previous comments, the Committee noted that, in the context of various complaints examined by the Committee on Freedom of Association (Cases Nos 2635, 2636 and 2646) alleging acts of anti-union discrimination, the Government had indicated that, "although freedom of association is protected under the Constitution, the national legislation does not define anti-union acts, and this prevents the Ministry of Labour and Employment from taking effective preventive and repressive measures against conduct such as that reported in the present case". In its previous comments, based on the information provided by the Government, the Committee expressed the hope that, in the context of the Labour Relations Council (CRT), it would be possible to prepare draft legislation explicitly establishing remedies and sufficiently dissuasive sanctions against acts of anti-union discrimination.

The Committee notes the Government's indication that: (i) freedom of association is protected by the Constitution; (ii) although the ordinary legislation does not contain a section on anti-union acts, it does have a section on the rights of trade union members; and (iii) within this part, section 543 of the Consolidation of Labour Laws (CLT) establishes the provisional stability of employment of trade union representatives and section 543(6) establishes an administrative penalty for any employer that prevents a worker from exercising her or his trade union rights, without prejudice to the right to compensation that could be obtained by the latter. The Committee also notes the indication by the CNT that new section 510-B of the CLT attributes the function to the committees of workers' representatives of ensuring the prevention of any discrimination, including anti-union discrimination in the enterprise. The Committee takes note of this information. It observes in this regard that: (i) the administrative penalties applicable in the event of non-compliance with section 543(6) of the CLT are currently established by the Provisional Measure No. 905 of November 2019 (a legislative measure adopted by the President which may remain in force for a maximum period of 120 days without the approval of the National Congress); (ii) the fines for anti-union acts prohibited under section 543(6) of the CLT are those imposed in relation to labour law violations in general; (iii) their amounts range from 1,000 to 100,000 Brazilian reals depending on whether the offences are of a mild, medium, serious or very serious; and (iv) the legislation does not specify the type of offences that are applicable to acts of anti-union discrimination. **Recalling the fundamental importance of ensuring effective protection against anti-union discrimination, the Committee requests the Government to take the necessary measures to ensure that the legislation explicitly establishes specific and sufficiently dissuasive sanctions against all acts of anti-union discrimination. The Committee requests the Government to report any developments in this regard.**

*Article 4. Promotion of collective bargaining. Relationship between collective bargaining and the law.* In its previous comments, the Committee noted that, under the terms of Act No. 13467, adopted on 13 November 2017, new section 611-A of the CLT introduced the general principle that collective agreements and accords prevail over the legislation, and it is therefore possible through collective bargaining to derogate from the protective provisions of the legislation, with the sole limit of the constitutional rights referred to in section 611-B of the CLT. The Committee recalled that it considered that, while targeted legislative provisions covering specific aspects of conditions of work and providing, in a circumscribed and reasoned manner, for the possibility of their replacement by means of collective bargaining may be compatible with the Convention, a legal provision providing for a general possibility to derogate from labour legislation by

means of collective bargaining would be contrary to the purpose of promoting free and voluntary collective bargaining established in *Article 4* of the Convention. On this basis, the Committee requested the Government, in consultation with the representative social partners, to take the necessary measures for the revision of sections 611-A and 611-B of the CLT so as to specify more precisely the situations in which clauses derogating from the legislation may be negotiated collectively, as well as the scope of such clauses.

The Committee notes the joint observations of the ITUC, BWI, EI, IndustriALL, ITF, IUF, PSI and UNI Global Union, which denounce the harmful effects deriving from the general possibility to derogate through collective bargaining from the protective provisions of the legislation. The Committee notes that the international trade union organizations consider that the new relationship between collective bargaining and the law established by Act No. 13467: (i) radically undermines the pillars on which collective bargaining machinery is established and constitutes a frontal attack on free and voluntary collective bargaining, as guaranteed by the Convention; (ii) creates the conditions for a race to the bottom between employers for the reduction of workers' rights; and (iii) has a dissuasive effect on the exercise of collective bargaining which is reported to have resulted in a decrease of 39 per cent in the coverage rate of collective bargaining in the country. The Committee also notes the observations of CUT, which indicates that: (i) the measures that make it possible to lower working conditions through negotiation do not promote the utilization of collective bargaining; and (ii) the reform has given rise to a significant fall in the number of collective agreements and accords concluded. The Committee also notes the observations of the NCST in this respect.

The Committee further notes the observations of the CNT and CNI, according to which sections 611-A and 611-B of the CLT: (i) offer great freedom to determine conditions of work that are favourable for all the parties through collective bargaining; (ii) are in conformity with the provisions of the Brazilian Constitution, in providing for the possibility to derogate from certain rights through a collective accord, as well as with the case law of the Supreme Federal Court, which emphasizes the need to respect agreements concluded by the social partners; and (iii) are in accordance with ILO Conventions on the subject, as indicated by the examination of the Conference Committee, which did not find any grounds for incompatibility with the Convention.

The Committee notes the information provided by the Government which, essentially, reiterates the positions expressed in previous reports. The Committee notes the Government's indication that: (i) the 2017 legislative reform reinforces the role and value of collective bargaining by increasing its material scope, which is fully in conformity with the purposes of ILO Conventions on this subject, and particularly necessary in the context of excessively detailed labour legislation; (ii) the primacy recognized for collective agreements and accords over the law reinforces the legal security of collective bargaining, which is essential in view of the traditional interference by the Brazilian judicial authorities and responds to a historical demand by the Brazilian trade union movement; (iii) section 611-A of the CLT does not in any event require unions to conclude accords which set aside protective legal provisions, and the social partners can choose to continue to be governed by these legal provisions, when that is in the interests of the parties; (iv) the reform also ensures the protection of 30 rights set out in section 611-B of the CLT, which cannot be set aside by collective bargaining; (v) none of the 30 legal actions initiated at the national level against Act No. 13467 have been related to collective bargaining; (vi) a situation in which collective bargaining could only lead to additional benefits for workers would discourage employers from participating in such bargaining; (vii) following a reduction of 13.1 per cent in 2018, the number of collective agreements and accords began to rise over the first four months of 2019 to come close to the levels prior to the reform; and (viii) as found by a detailed study carried out by the Institute of Economic Research Foundation (FIPE), the agreements negotiated are favourable to workers and cover more areas than before, which shows that the alleged dissuasive effect of section 611-A on collective bargaining has not occurred; and (ix) the reform of the labour legislation has been welcomed by the World Bank, the Organisation of Economic Co-operation and Development, and the International Monetary Fund. Finally, the Committee notes the Government's statements that: (i) there is no textual basis for the position of this Committee as well as the Labour Relations (Public Service) Convention, 1978 (No. 151) and the Collective Bargaining Convention, 1981 (No. 154) have the general objective of promoting more favourable conditions of work than those set out in the legislation; and (ii) the reference by the Committee to the preparatory work for the Conventions is inappropriate.

The Committee notes the various elements referred to by the Government and the national and international social partners. The Committee notes, in the first place, the Government's indication that, contrary to the view expressed by the trade unions, the number of collective agreements and accords concluded is in the process of reaching the levels prior to the 2017 legislative reform. The Committee emphasizes the importance of continuing to have available full information on this subject, both on the number of agreements and accords concluded and their content. The Committee also notes the reiterated view by the Government and employers' organizations that sections 611-A and 611-B of the CLT promote collective bargaining within the meaning of the Convention by ensuring greater freedom to the negotiating parties and at the same time guaranteeing that many rights cannot be set aside through collective bargaining.

The Committee recalls in this respect that, on the basis of the detailed information provided by the Government, the Committee noted in previous comments that: (i) the possibility of setting aside the protective provisions of the legislation through collective bargaining introduced by Act No. 13467 is indeed not absolute, as section 611-B of the CLT establishes a limitative list setting out 30 rights, based on the provisions of the Constitution of Brazil, which cannot be set aside through collective agreements or accords; and (ii) the possibilities for derogation from the legislation opened up by section 611-A are however very extensive insofar as, on the one hand, the section refers explicitly to 14 points covering many aspects of

the employment relationship and, on the other, this list, in contrast with the list set out in section 611-B, is solely indicative (“inter alia”), with the possibility of setting aside the protective provisions of the legislation through collective bargaining thereby being established as a general principle.

The Committee recalls that it considers that, while targeted legislative provisions covering specific aspects of conditions of work and providing, in a circumscribed and reasoned manner, for the possibility of their replacement by means of collective bargaining may be compatible with the Convention, a legal provision providing for a general possibility to set aside the protective provisions from labour legislation by means of collective bargaining would be contrary to the objective of promoting free and voluntary collective bargaining, as set out in *Article 4* of the Convention. **While emphasizing the importance of obtaining, insofar as possible, tripartite agreement on the basic rules of collective bargaining, the Committee therefore once again requests the Government to take the necessary measures, in consultation with the representative social partners, for the revision of sections 611-A and 611-B of the CLT so as to specify more precisely the situations in which clauses derogating from the legislation may be negotiated, as well as the scope of such clauses. Moreover, noting the Government’s indications concerning the increase in the number of collective agreements and accords concluded during the first four months of 2019, the Committee requests the Government to continue providing information on developments in the number of collective agreements and accords concluded in the country, including on the agreements and accords which contain clauses derogating from the legislation, specifying their nature and scope.**

*Relationship between collective bargaining and individual contracts of employment.* In its previous comments, the Committee requested the Government to take the necessary measures to ensure the conformity with the Convention of section 444 of the CLT, under the terms of which workers who have a higher education diploma and receive a wage that is at least two times higher than the ceiling for benefits under the general social security scheme may derogate from the provisions of the applicable collective agreements in their individual contracts of employment.

The Committee notes the Government’s indication in this regard that *Article 4* of the Convention does not refer to individual contracts of employment and that it reiterates that section 444 of the CLT concerns a very small group of workers, generally higher managerial personnel, representing only around 0.25 per cent of the population. The Committee also notes the position of the employers’ organizations, the CNI and CNT, which consider that the provisions of section 444 extend the possibilities for negotiation available to the workers concerned. The Committee finally notes the position expressed by the national and international trade union organizations, which call for the repeal of the provision.

The Committee recalls once again that the obligation to promote collective bargaining set out in *Article 4* of the Convention requires that the individual negotiation of the terms of the contract of employment cannot derogate from the rights and guarantees provided in the applicable collective agreements, on the understanding that contracts of employment can always set out more favourable terms and conditions of work and employment. The Committee also reiterates that this principle is explicitly set out in Paragraph 3 of the Collective Agreements Recommendation, 1951 (No. 91). While emphasizing once again that collective bargaining machinery can take into account the specific needs and interests of different categories of workers who may, if they so wish, be represented by their own organizations, the Committee recalls that the present Convention is fully applicable to the workers covered by section 444 of the CLT insofar as, under the terms of *Articles 5* and *6*, only the armed forces and the police (*Article 5*) and public servants engaged in the administration of the State (*Article 6*) may be excluded from the scope of application of the Convention. The Committee therefore reiterates that the Convention does not allow for an exclusion from its scope of application on the basis of the level of remuneration of the workers. **The Committee therefore once again requests the Government, after consultation with the representative social partners concerned, to take the necessary measures to ensure the conformity of section 444 of the CLT with the Convention. The Committee requests the Government to provide information on any progress achieved in this respect.**

*Scope of application of the Convention. Autonomous and self-employed workers.* In its previous comments, based on the allegations made by the trade unions that the extension of the definition of self-employed workers as a result of new section 442-B of the CLT would have the effect of excluding a significant category of workers from the rights set out in the Convention, the Committee invited the Government to hold consultations with all the parties concerned with a view to ensuring that all autonomous and self-employed workers are authorized to participate in free and voluntary collective bargaining, and to identify the appropriate adaptations to be introduced into collective bargaining procedures to facilitate their application to these categories of workers.

The Committee recalls that, irrespective of the definition of autonomous and self-employed workers stemming from section 442-B of the CLT, all workers, including autonomous and self-employed workers are covered by the provisions of the Convention. In this respect, the Committee welcomes the Government’s indications that, under the terms of section 511 of the CLT, which recognizes the right to organize of autonomous workers, these workers are also covered by the right to engage in collective bargaining. The Committee further notes in this regard the similar position expressed by the CNT and CNI. At the same time, the Committee notes the call made by the ITUC and seven international trade union federations for all measures to be taken to ensure the effective access of autonomous and self-employed workers to free and voluntary collective bargaining. **The Committee invites the Government to provide examples of collective agreements or accords negotiated by organizations representing autonomous or self-employed workers or, at the least, of which the scope of application covers these categories of workers.**

*Relationship between the various levels of collective bargaining.* The Committee previously noted that, under the terms of section 620 of the CLT, as amended by Act No. 13467, the conditions established in collective labour accords

(which are concluded at the level of one or more enterprises) always prevail over those contained in collective labour agreements (which are concluded at a broader level, such as a sector of activity or an occupation). In this regard, the Committee requested the Government to indicate the manner in which respect for the commitments made by the social partners in the framework of agreements concluded at the level of the sector of activity or occupation is guaranteed and to provide information on the impact of section 620 of the CLT on recourse to the negotiation of collective agreements and collective accords, and on the overall coverage rate of collective bargaining in the country.

The Committee notes that the Government confines itself to indicating in this regard that the objective of section 620 of the CLT is to allow the conclusion of accords that are closer to the everyday reality of workers and the enterprise. The Committee also notes that the CNI and CNT consider that the primacy accorded in all cases to collective accords over collective agreements, of which the scope of application is broader, is fully in accordance with the provisions of the Convention, insofar as the latter does not establish any order of preference or hierarchy between the various bargaining levels.

The Committee recalls once again that, in accordance with *Article 4* of the Convention, collective bargaining must be promoted at all levels and that, in conformity with the general principle set out in Paragraph 3(1) of Recommendation No. 91, collective agreements should bind the signatories thereto and those on whose behalf the agreement is concluded. ***Noting the absence of replies by the Government in this regard, the Committee once again requests the Government to: (i) indicate the manner in which respect for the commitments made by the social partners in the framework of agreements concluded at the level of the sector of activity or occupation is guaranteed; and (ii) provide information on the impact of section 620 of the CLT on recourse to the negotiation of collective agreements and collective accords, and on the overall coverage rate of collective bargaining in the country.***

*Article 4. Promotion of free and voluntary collective bargaining. Subjection of collective agreements to financial and economic policy.* The Committee recalls that for many years it has been emphasizing the need to repeal section 623 of the CLT, under the terms of which the provisions of an agreement or accord that are in conflict with the standards governing the Government's economic and financial policy or the wage policy that is in force shall be declared null and void. In this regard, emphasizing that *Article 4* of the Convention requires the promotion of free and voluntary collective bargaining, the Committee recalled that: (i) the public authorities may establish machinery for discussion and the exchange of views to encourage the parties to collective bargaining to take voluntarily into account considerations relating to the Government's economic and social policy and the protection of the public interest; and (ii) restrictions on collective bargaining in relation to economic matters should only be possible in exceptional circumstances, that is in the case of serious and insurmountable difficulties in preserving jobs and the continuity of enterprises and institutions. ***In view of the absence of a response from the Government on this matter, and noting that the 2017 reform of the labour legislation has not removed this section, the Committee once again requests the Government to take the necessary measures to amend the legislation as indicated above and to provide information in its next report on any measures adopted in this regard.***

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

### ***Rural Workers' Organisations Convention, 1975 (No. 141) (ratification: 1994)***

The Committee notes the observations of the National Transport Confederation (CNT), which relate to matters examined by the Committee in this comment.

*Article 3 of the Convention. Right of rural workers to establish and join organizations of their choosing.* For years the Committee has been recalling that the levying of a compulsory union contribution for all workers in a particular economic category by means of the Constitution or by legal means is not in conformity with the principles of freedom of association, and that, questions relating to the financing of union organizations should be governed by the rules of the respective organizations, or be the result of standards agreed in of collective agreements. The Committee notes with *interest* that, through the reform introduced by Law No. 13476/2017, trade union contributions ceased to be compulsory and became optional, as provided for in the new wording of section 578 of the Consolidation of Labour Laws (CLT). The Committee notes that the Government indicates that this legislative amendment was examined by the Supreme Court of Brazil, which considered it to be in conformity with the Brazilian legal system. On the other hand, the Committee notes that, in its observations concerning the application of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Single Confederation of Workers (CUT) alleges that: (i) this important alteration of the system of trade union contributions was decided with anti-union motivation and without listening to workers' organizations or allowing them to participate in its elaboration; (ii) these modifications, which privilege the individual sphere, were exacerbated by the Provisional Measure (a legislative measure that the President may adopt for a maximum period of 120 days without approval by the National Congress) No. 873, adopted by the Government on 1 March 2019 to introduce additional modifications to the CLT, requiring express, individual and written authorizations from the workers concerned for the payment of a union contribution from the wages and preventing discounts on contributions from being established through union assemblies or collective bargaining; and (iii) Provisional Measure No. 873 imposed additional restrictions, such as limiting the enforceability of union members or obliging their processing via bank slips (which the CUT considers impossible to implement because of the costs involved). While noting that the Provisional Measure is no longer in force, the Committee recalls that issues relating to the deduction of trade union dues should be able to be included among the subjects for negotiation and not subject uniquely to regulation

by the law, and that the manner for their collection should be determined by the parties themselves. *The Committee requests the Government to provide its comments on this matter.*

On the other hand, the Committee notes that the following provisions remain to be brought into line with *Article 3* of the Convention:

- the prohibition of establishing more than one trade union, whatever its level, to represent the same occupational or economic category in the same geographical area (article 8(II) of the Constitution and section 516 of the Consolidation of Labour Laws (CLT)); and
- the requirement of five lower-level organizations for the establishment of federations and confederations (section 534 of the CLT).

The Committee notes that the Government indicates in this regard that: (i) a constitutional reform implies several legal procedures and political considerations; (ii) Law No. 13476/2017 represented a major change in labour legislation, both in individual and collective matters; (iii) in this last area of collective labour relations, the Government plans to introduce new modifications to improve the harmony between national and international law; and (iv) section 534 of the CLT concerns an issue that will be examined further. *Having taken due note of the information provided, the Committee requests the Government to take the necessary additional measures to ensure full compliance with Article 3 of the Convention.*

## Bulgaria

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

*Article 3 of the Convention. Right of workers' organizations to organize their administration and activities and to formulate their programmes.* The Committee recalls that for a number of years it had been raising the need to amend section 47 of the Civil Servants Act (CSA), which restricted the right to strike of public servants. The Committee takes note with *satisfaction* that section 47 of the CSA has been amended to recognize the right to strike of civil servants. The Committee notes that the Government indicates that: (i) the right is applicable to all civil servants with the exception of managing senior civil servants, that is those holding the positions of Secretary-General, Municipal Secretary, Director General of the Directorate-General, Director of a Directorate and Head of Inspectorate; (ii) section 47 also provides that participation of civil servants in a legal strike is counted as official length of service, for the time during which they participate in a legal strike civil servants have a right to compensation, and it is explicitly prohibited to seek disciplinary action or liability for civil servants participating in a legal strike.

The Committee further recalls its comments concerning the need to amend section 11(2) of the Collective Labour Disputes Settlement Act (CLDSA), which provides that the decision to call a strike shall be taken by a simple majority of the workers in the enterprise or the unit concerned; and section 11(3), which requires the strike duration to be declared in advance. The Committee notes the Government's indication, on the requirement of support by a majority of the workers that: (i) the requirement is justified as it creates certainty that the objectives pursued by the strike are common for most of the workers and employees, and not just for a small part of them; (ii) the CLDSA provides for the possibility that the simple majority is taken only by the workers and employees in a particular division of the enterprise; (iii) the CLDSA does not explicitly specify the manner in which the decision to strike should be taken, so that it is not necessary to bring all workers and employees together in one place at the same time; and (iv) workers and employees who have expressed their consent to strike are not bound by the obligation to participate in it and it is not uncommon in practice for the number of those effectively striking to be smaller than the number of workers and employees who have given their consent to the strike. While noting these explanations from the Government, the Committee must recall again that requiring a decision by over half of all the workers involved in the enterprise or unit in order to declare a strike is excessive and could unduly hinder the possibility of calling a strike, particularly in large enterprises, and that if a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast and that the required quorum and majority are fixed at a reasonable level (see the 2012 General Survey on the fundamental Conventions, paragraph 147). As to the requirement to indicate the duration of the strike, the Committee notes that the Government indicates that: (i) prior notice of the duration of the strike is aimed at determining the period during which the parties make efforts to settle the dispute definitively through direct negotiation, mediation or any other appropriate means, and that the requirement seeks to encourage the parties to make every effort possible to resolve the dispute; and (ii) the CLDSA does not restrict the right to strike, as it does not prohibit workers and employees from continuing their strike actions by making a decision to do so. In this respect, the Committee must recall once again that workers and their organizations should be able to call a strike for an indefinite period if they so wish without having to announce its duration. *The Committee requests the Government to provide information on any developments concerning sections 11(2) and 11(3) of the CDLSA, and to indicate what are the requirements for continuing a strike action beyond its initially determined duration, in particular whether a new vote and decision by the workers concerned must take place, or whether instead a decision by the trade union calling the strike is enough.*

In its previous comments, the Committee has also been raising the need to amend section 51 of the Railway Transport Act, which provides that, where industrial action is taken under the Act, the workers and employers must provide the

population with satisfactory transport services corresponding to no less than 50 per cent of the volume of transportation that was provided before the strike. The Committee welcomes the Government's indication that: (i) the Ministry of Labor and Social Policy recalled to the Ministry of Transport, Information Technologies and Communications (MTITC) the need for amendment of the aforementioned section 51 of the RTA in order to be in compliance with the Convention; (ii) the MTITC expressed readiness to take the necessary steps to amend the aforesaid section; and (iii) currently consultations are being held and the Ministry of Labour and Social Policy will continue to report on the progress made. The Committee recalls that the establishment of too broad a minimum service (like no less than 50 per cent) restricts one of the essential means of pressure available to workers to defend their economic and social interests, that workers' organizations should be able to participate in defining such a service, along with employers and the public authorities, and that in cases where agreement is not possible, the issue should be referred to an independent body. *The Committee requests the Government to provide information on any progress in this regard.*

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

The Committee notes the Government's comments on previous observations of the International Trade Union Confederation (ITUC).

*Article 1 of the Convention. Protection against acts of anti-union discrimination.* In its previous comments, the Committee had invited the Government to take the necessary steps to strengthen the sanctions and remedy measures available in cases of acts of anti-union discrimination and to provide specific information on the application of the relevant national legislation in practice. The Committee had requested the Government to: (i) provide statistics as to the average length of reinstatement proceedings; (ii) specify the number of reinstatement orders issued in cases of anti-union dismissal; and (iii) clarify whether a worker alleging anti-union dismissal may initiate proceedings both under the Labour Code (LC, sections 344 and 225) and the Protection against Discrimination Act (sections 71 and 78). The Committee notes that the Government states that: (i) no statistical information is maintained on the average length of the recovery procedure and the number of decisions to reinstate a worker fired with anti-union motives (however, pursuant to section 344 of the LC, these disputes are examined by the regional court within three months after receipt of the application, and by the district court within one month of receipt of the appeal); (ii) workers concerned may file both a claim for compensation for staying unemployed under section 225 of the LC, and a claim contesting the dismissal and seeking reinstatement pursuant to section 344 of the LC; (iii) section 225 of the LC aims to compensate the worker for the harm arising from the missed opportunities to receive remuneration due to an unlawful dismissal; (iv) however, it limits the amount of possible compensation to the amount of the employee's gross remuneration for the time of unemployment due to unlawful dismissal, up to a maximum of six months, in order to motivate the worker to look for a job on the labour market; and (v) if the worker has suffered harm on other grounds, including because of discrimination, he or she has the opportunity to seek compensation for them under the general civil law or through the mechanisms provided for in the Protection against Discrimination Act. *Having duly noted the information provided by the Government, the Committee invites it to collect statistical information on the application of the existing mechanisms to protect against anti-union discrimination, including anti-union dismissals, noting in particular the number and type of requests for remedies brought under the LC, the Protection against Discrimination Act, and/or general civil law, as well as their outcome detailing the number of reinstatement orders and the amount of compensation awarded. The Committee further encourages the Government to hold consultations with the most representative organizations to assess, in light of this statistical information, the need for any additional measures to ensure that the remedies to protect against anti-union discrimination provide a sufficiently dissuasive sanction both in law and in practice.*

*Article 2. Protection against acts of interference.* In its preceding comments the Committee had: (i) observed that national legislation does not provide adequate protection of workers' organizations against acts of interference by employers or employers' organizations; (ii) taken note of the ITUC allegations of acts of harassment and interference on the employer's side, and of the insistence by the Confederation of Independent Trade Unions in Bulgaria (CITUB) on the need to adopt penal sanctions against acts of interference; and (iii) requested the Government to indicate the legislative measures taken or envisaged to this end. *Regretting the lack of information provided by the Government in this respect, and recalling that national legislation should explicitly prohibit all acts of interference mentioned in the Convention and make express provision for rapid appeal procedures, coupled with dissuasive sanctions, the Committee once again requests the Government to take the necessary measures in the near future to amend the national legislation accordingly. The Committee requests the Government to provide information on any progress achieved in this respect.*

*Articles 4 and 6. Collective bargaining in the public sector.* The Committee recalls that for a number of years it has been requesting the Government to amend the Civil Servants Act so that the right to collective bargaining of public service workers not engaged in the administration of the State is duly recognized. The Committee notes that the Government provides no information in this regard, and observes that the 2016 amendments to the Civil Servants Act did not address the need to bring this aspect of national legislation into conformity with the Convention. The Committee must recall that, although Article 6 of the Convention allows public servants engaged in the administration of the State to be excluded from its scope, other categories of public servants should enjoy the guarantees of the Convention and therefore be able to negotiate collectively their conditions of employment, including wages. *The Committee urges the Government to take, as soon as possible, the steps necessary to amend the Civil Servants Act so as to ensure the right to collective bargaining of public*

*servants not engaged in the administration of the State. The Committee hopes that the Government will make every effort to take the necessary action in the near future.*

*Application of the Convention in practice. The Committee requests the Government to provide information on the number of collective agreements concluded and in force, the sectors concerned and the percentage of the workforce covered by these agreements, as well as on any measures undertaken to promote the full development and utilization of collective bargaining under the Convention.*

## Burkina Faso

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

The Committee notes the joint observations of six trade union confederations (General Labour Federation of Burkina Faso (CGT-B); National Confederation of Workers of Burkina (CNTB); Trade Union Confederation of Burkina Faso (CSB); Force Ouvrière/National Union of Free Trade Unions (FO/UNSL); National Organization of Free Trade Unions (ONSL) and the Trade Union of Workers of Burkina Faso (USTB)) received on 29 August 2019, concerning the administrative suspension of two trade unions in the transport sector and the ban on the activities of a prison officials' union. **The Committee requests the Government to provide its comments in this regard.**

In its previous comments, the Committee requested the Government to amend certain legislative and regulatory provisions relating to the right to strike in order to bring them into conformity with *Articles 2 and 3* of the Convention:

- section 386 of the Labour Code, under the terms of which the exercise of the right to strike shall on no account be accompanied by the occupation of the workplace or its immediate surroundings, subject to the penal sanctions established in the legislation in force. In this regard, the Committee recalled that restrictions on strike pickets and the occupation of the workplace are acceptable only where the action ceases to be peaceful. However, it is necessary in all cases to ensure observance of the freedom of non-strikers to work and the right of management to enter the premises;
- the Order of 18 December 2009, issued under section 384 of the Labour Code, which lists establishments that may be subject to requisitioning for the purpose of ensuring a minimum service in the event of a strike. The Committee observed that certain of the services contained in the list could not be considered essential services or require the maintenance of a minimum service in the event of a strike, such as mining and quarrying, public and private slaughterhouses, university centres. The Committee therefore requested the Government to revise the list of establishments which may be subject to requisitioning for the purpose of ensuring a minimum service in the event of a strike to ensure that requisitioning is only possible in: (i) 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) services which are not essential in the strict sense of the term, but in which strikes of a certain scope and duration could give rise to an acute crisis threatening the normal living conditions of the population; or (iii) public services of fundamental importance.

The Committee notes the Government's indication that the process of revising the Labour Code has not yet been completed, that the draft bill issuing the Labour Code was discussed at a validation workshop in October 2017 and that, once the revision process is complete, the above-mentioned Order of 18 December 2009 on requisitions could be amended.

With regard to its previous comments on the need to amend section 283 of the Labour Code, which provides that children of at least 16 years of age may join a trade union unless their father, mother or guardian objects, the Committee welcome's the Government's indication that the draft revising the Labour Code no longer refers to objections by parents or guardians.

***The Committee expresses the firm hope that the Labour Code will be adopted in the near future and that it will give full effect to the provisions of the Convention on the matters recalled above. It requests the Government to provide a copy of the Code once promulgated, as well as any relevant implementing texts.***

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

The Committee notes the joint observations of six trade union confederations: (General Labour Federation of Burkina Faso (CGT-B); National Confederation of Workers of Burkina (CNTB); Trade Union Confederation of Burkina Faso (CSB); Force Ouvrière/National Union of Free Trade Unions (FO/UNSL); National Organization of Free Trade Unions (ONSL) and the Trade Union of Workers of Burkina Faso (USTB)) received on 29 August 2019, concerning persistent obstacles to the application of the Convention, including acts of anti-union discrimination against trade union activists and leaders. **The Committee requests the Government to provide its comments in this regard.**

*Articles 4 and 6 of the Convention. Collective bargaining in the public sector.* In its previous comments, the Committee noted that while the national legislation allows civil servants to establish associations or occupational trade unions and grants them the right to strike within the framework defined by the relevant legislation in force (sections 69 and

70 of Act No. 081-2015/CNT of 24 November 2015, issuing the general regulations of the public service), the right to collective bargaining of public servants not engaged in the administration of the State is not explicitly recognized. With regard to the scope of application of the Convention and the exceptions for public officials to which the Government refers in its report, the Committee wishes to recall the distinction that should be drawn between, on the one hand, public servants who by their functions are directly engaged in the administration of the State (such as civil servants employed in government ministries and other comparable bodies, as well as ancillary staff) who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the Government, by public undertakings or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention. This second category of public employees includes, for instance, employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers, as well as air transport personnel, whether or not they are considered in national law as belonging to the category of public servants (see the 2012 General Survey on the fundamental Conventions, paragraph 172). The Committee notes that according to the Government, the labour relationship between the State and public officials is governed by specific laws and regulations drafted with the involvement of stakeholders, including the social partners. ***The Committee requests the Government once again to provide information on the measures taken or envisaged to ensure the right to collective bargaining of public servants not engaged in the administration of the State and to establish adequate machinery to promote the exercise of this right. The Committee requests the Government to provide information in its next report on any developments in this regard, and on any collective bargaining conducted in the public sector. The Committee reminds the Government that it can, if it so wishes, have recourse to the technical assistance of the Office.***

## Burundi

### ***Right of Association (Agriculture) Convention, 1921 (No. 11)*** ***(ratification: 1963)***

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 for many years its comments have referred to the need to amend Decree No. 1/90 of 25 August 1967 on rural associations, which provides that, in the event that the public authorities, through a public donation, undertake a project aiming at, inter alia, the development of land and livestock, the Minister of Agriculture may establish rural associations (section 1), membership of which is compulsory (section 3), and that the Minister determines their statutes (section 4). It also provides that the obligations of agricultural workers who are members of these associations include the provision of services for the common enterprise, the payment of a single or regular contribution, the provision of agricultural or livestock products and the observance of rules respecting cultural discipline and other matters (section 7), under penalty of the seizure of the member's property (section 10).

The Committee notes with *regret* that in its report the Government has limited itself to reiterating that the Decree in question has not yet been repealed but that its repeal should take place without further delay. ***The Committee firmly expects that the Government will finally take the necessary measures to amend or repeal Legislative Decree No. 1/90 of 25 August 1967. The Committee requests the Government to provide information on this subject.***

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

### ***Freedom of Association and Protection of the Right to Organise*** ***Convention, 1948 (No. 87) (ratification: 1993)***

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 made by the International Trade Union Confederation (ITUC), received on 31 August 2016, relating to matters raised by the Committee and allegations of administrative suspension of a trade union. ***The Committee requests the Government to provide comments on this subject.*** The Committee notes the observations made by the International Organisation of Employers (IOE), received on 1 September 2016, which are of a general nature.

The Committee notes with *regret* that the Government confines itself in its report to indicating that the Committee's comments will be taken into account within the context of the current revision of the relevant legislation. It recalls that its previous comments related to the following points:

#### *Article 2 of the Convention.*

- *Right of public employees without distinction whatsoever to establish and join organizations of their own choosing.* This concerns the absence of regulations respecting the exercise of the right to organize of magistrates, which is behind the difficulties experienced in the registration of the Trade Union of Magistrates of Burundi (SYMABU).
- *Right to organize of minors.* Section 271 of the Labour Code provides that minors under the age of 18 may not join a trade union of their own choosing without the explicit authorization of their parents or guardians.

#### *Article 3. Election of trade union officers.*

- *Criminal record.* Under the terms of section 275(3) of the Labour Code, persons are excluded from trade union office if they have been sentenced to imprisonment without suspension of sentence for more than six months. The Committee recalls that 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.
- *Belonging to the occupation.* Section 275(4) of the Labour Code provides that trade union leaders must have belonged to the occupation or trade for at least one year. The Committee previously requested the Government to make the legislation

more flexible by allowing persons who had previously worked in the occupation to stand for office or by lifting this requirement for a reasonable proportion of trade union officers.

*Right of organizations to organize their activities and to formulate their programmes in full freedom. Procedures for the exercise of the right to strike.*

- *Compulsory procedures prior to calling a strike* (sections 191–210 of the Labour Code). This series of procedures appears to empower the Minister of Labour to prevent any strikes.
- *Voting requirements to call a strike.* Under the terms of section 213 of the Labour Code, strikes are lawful when they are called with the approval of a simple majority of the employees of the workplace or enterprise. The Committee recalls that the ballot method, the quorum and the majority required should not be such that the exercise of the right to strike becomes unduly difficult in practice. If a country deems it appropriate to require a vote by workers before a strike can be held, it should ensure that account is taken only of the votes cast, and that the required quorum and majority are fixed at a reasonable level (see 2012 General Survey on the fundamental Conventions, paragraph 147).
- *Legislative Decree prohibiting demonstrations and the exercise of the right to strike during election periods.* According to the Government, this Legislative Decree has still not been repealed.

*Recalling that the matters raised above have been the subject of its comments for many years, the Committee notes that, according to the Government's statement, it undertakes to give effect to them and that the revision of the Labour Code is under way. The Committee trusts that the Government will be in a position to provide information in the very near future on the progress made in this work and to provide the text of the revised Labour Code as soon as it has been adopted. The Committee recalls that the Government may avail itself of ILO technical assistance 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.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1997)**

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 31 August 2016, relating to matters examined by the Committee in the present comment, and containing allegations of anti-union discrimination. *The Committee requests the Government to provide its comments with respect to these allegations.*

The Committee notes with *regret* that no progress has been achieved in the application of the Convention and that the Government confines itself to indicating that the Committee's comments will be taken into account in the context of the current revision of the relevant legislation and regulations.

*Articles 1, 2 and 3 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* The Committee previously emphasized the non-dissuasive nature of the sanctions established by the Labour Code for acts of anti-union discrimination and interference. *The Committee trusts that the respective provisions will be amended within the context of the revision of the Labour Code.*

*Article 4. Right to collective bargaining in practice.* The Committee recalled previously that, although nothing in the Convention places a duty on the Government to ensure the application of collective bargaining through compulsory means in relation to the social partners, that does not mean that governments should refrain from taking any measures aimed at promoting collective bargaining mechanisms. *The Committee once again requests the Government to provide information on the specific measures taken to promote collective bargaining, and to provide information of a practical nature on the situation with regard to collective bargaining, including the number of collective agreements concluded up to now, the sectors and the number of workers covered. The Committee hopes that the Government will be in a position to indicate substantial progress in its next report.*

*Articles 4 and 6. Right of collective bargaining for public servants not engaged in the administration of the State.* The Committee previously noted the Government's indications that public servants participate in the determination of their terms and conditions of employment. According to the Government, their right of collective bargaining is recognized, for which reason agreements exist in the education and health sectors. In the case of public establishments and personalized administrations (enjoying legal personality and autonomy in management) employees participate in the determination of remuneration, as they are represented on the governing councils, and wage claims are submitted to employers by enterprise councils or trade unions, with the competent minister only intervening to safeguard the general interest. In certain ministries, trade unions have obtained bonuses to supplement wages.

The Committee recalls that pursuant to *Article 4* of the Convention, governments shall take measures appropriate to national conditions to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations and workers' organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements. *The Committee requests the Government to continue providing information on the measures taken or envisaged to ensure that organizations of public servants not engaged in the administration of the State have at their disposal mechanisms which allow them to bargain collectively on the terms and conditions of their employment, including wages. The Committee requests the Government to provide information on any agreement on conditions of employment, including wages, concluded in the public sector.*

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

## Cambodia

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1999)**

The Committee takes note of the comments of the Government in reply to the 2016 and 2017 observations from the International Trade Union Confederation (ITUC), including the indication that the provisions in the draft Law on Minimum Wage that had been questioned by the ITUC as prohibiting legitimate trade union activities were subsequently removed from the promulgated law. The Committee further notes the observations submitted by the ITUC received on 1 September 2019, concerning matters examined in this comment, as well as alleging violent repression of strikes by hired criminals and the detention of union leaders organizing strike action in the garment sector. ***The Committee requests the Government to provide its comments in this respect.***

#### **Trade union rights and civil liberties**

***Murders of trade unionists.*** With regard to its long-standing recommendation to carry out expeditious and independent investigations into the murders of trade union leaders Chea Vichea and Ros Sovannareth (in 2004) and Hy Vuthy (in 2007), the Committee notes that the Government indicates once again that the relevant ministries and institutions have been working on the cases but that their long-standing nature, coupled with the lack of cooperation from Mr. Vichea's family, renders the investigation even more complicated. The Government further states that in order for the investigation to conclude, all relevant parties, especially the families of victims, need to cooperate fully, and indicates that the investigation was brought up to the annual meeting of the National Commission on Reviewing the Application of the International Labour Conventions ratified by Cambodia (NCRILC). The Committee must express once again its ***deep concern*** with the lack of concrete results concerning the investigations, even bearing in mind the suggested lack of cooperation of victims' families, and the Committee refers to the conclusions and recommendations of the Committee on Freedom of Association in its examination of Case No. 2318 (see 390th Report, October–November 2019). ***Recalling the need to conclude the investigations and to bring to justice the perpetrators and the instigators of these crimes, the Committee urges once again the competent authorities to take all necessary measures to expedite the process of investigation.***

***Incidents during the January 2014 demonstrations.*** Concerning the trade unionists facing criminal charges in relation to incidents during the January 2014 demonstrations, the Committee notes with ***interest*** the Government's indication that the six trade union leaders that had initially been sentenced to a suspended three years and six months imprisonment and collective payment of compensation equivalent to US\$8,750 were acquitted of all charges on 28 May 2019 by the Court of Appeal after the initial judgement was appealed with legal support from the Ministry of Labour and Vocational Training (MLVT) and the Ministry of Justice (MoJ). The Committee further notes the Government's indication that: (a) as to other trade unionists under judicial procedures, the MLVT and the MoJ have established a working group, which requested trade unions to provide information on their cases, so that the two ministries could follow up with the court in order to expedite the settlement (80 per cent of the criminal cases against trade unionists have been settled so far); (b) out of a total of 121 criminal cases identified as involving trade unionists, 71 cases have been settled (with verdicts issued for 27 cases, filing without processing by the prosecutor for 13 cases and charges dropped by the investigating judge for 23 cases); 33 cases remain under judicial proceedings and 17 cases are not related to freedom of association or labour rights but have also been settled; and (c) out of the 19 civil cases, 11 have been settled (verdicts issued for nine cases and charges dropped for two cases), and eight cases are under court proceedings (two of which are not related to freedom of association or labour rights). ***The Committee requests the Government to continue providing information on these procedures, in particular on any verdicts issued, as well as undertaking all necessary efforts to ensure that no criminal charges or sanctions are imposed in relation to the peaceful exercise of trade union activities.***

***Training of police forces in relation to industrial and protest action.*** In its previous comment, recalling that the intervention of the police should be in proportion to the threat to public order and that the competent authorities should receive adequate instructions so as to avoid the danger of excessive force in trying to control demonstrations that might undermine public order, the Committee encouraged the Government to consider availing itself of the technical assistance of the Office in relation to the training of police forces, with a view, for example, to the development of guidelines, a code of practice or a handbook on handling industrial and protest action. The Committee notes the Government's indication that: (i) the MLVT had cooperated with the Ministry of Interior to produce documents for the training of police forces to ensure full respect of trade union rights; (ii) on December 2018 the MLVT sent a letter to the ILO requesting technical assistance to provide a training course for police forces; and (iii) on April 2019 its representatives met with ILO officials to prepare the training for the national police and agreed to organize four courses of training of trainers, in cooperation with the Ministry of Interior and the Officer of the High Commissioner for Human Rights to take place in the second semester of 2019. ***The Committee requests the Government to provide information on developments in this regard, including with respect to completion of the four training courses, their duration, number of participants, and particular subjects covered.***

#### **Legislative issues**

The Committee takes due note of the information provided by the Government on the process to prepare amendments to the Law on Trade Unions (LTU) in consultation with the social partners. The Government indicates that: (i) the MLVT

submitted a first draft amendment for tripartite consultation; (ii) workers and employers organizations submitted written comments; (iii) two national tripartite consultative workshops took place on 25 April 2019 and on 2 August 2019, with the technical support of the ILO and during which the social partners could provide additional inputs; (iv) on 9 August 2019 a final draft was submitted to the Council of Ministers, with a view to its further submission to the National Assembly for review and adoption by the end of 2019; and (v) in the meantime, a number of regulations (*prakas*) have been adopted to simplify the implementation of the LTU, including on the subjects of registration of unions, federations and confederations. The Committee observes that the draft law was approved by the National Assembly on 26 November 2019. **The Committee requests the Government to provide a copy of the adopted amendments to the LTU.**

*Article 2 of the Convention. Rights of workers and employers, without distinction whatsoever, to establish and join organizations.* In its previous comments the Committee urged the Government to take appropriate measures, in consultation with the social partners, to ensure that civil servants – including teachers – who are not covered by the LTU are fully ensured their freedom of association rights under the Convention, and that the legislation is amended accordingly. The Committee notes that, while in the Progress Report for the Roadmap on Implementation of ILO Recommendations concerning Freedom of Association submitted to the ILO in June 2019, the Government had indicated that it continued to organize consultative workshops and to finalize draft legislative amendments, no amendments have been drafted in this respect. In its report to the Committee the Government only reiterates that it considers that freedom of association is guaranteed to all workers through two pieces of legislation: (i) the LTU, applicable to the private sector – including domestic workers (the amendments will introduce an explicit reference to domestic workers in section 3 of the LTU on the scope of the law), teachers who are not civil servants, and workers in the informal economy meeting the LTU’s requirements to form a union; and (ii) the Law on Associations and Non-Governmental Organizations (LANGO) providing for the right to organize of civil servants, including teachers who now have such status.

The Committee must recall once again that some provisions in the LANGO contravene freedom of association rights of civil servants under the Convention, as it lacks provisions recognizing civil servants’ associations’ right to draw up constitutions and rules, the right to elect representatives, the right to organize activities and formulate programmes without interference of the public authorities, and the right to affiliate to federations or confederations, including at the international level, and subjects the registration of these associations to the authorization of the Ministry of Interior. In addition, the Committee had noted that workers’ organizations and associations expressed deep concern at: (i) the lack of protection of teachers’ trade union rights (referring in particular to sanctions and threats to teachers seeking to organize); and (ii) the difficulties faced by domestic workers and workers in the informal economy in general seeking to create or join unions, since the LTU provides for an enterprise union model, whose requirements are often very difficult to meet by these workers, and does not allow for the creation of unions by sector or profession. Similarly, the Committee had taken note of the ITUC’s claim that the absence of any structure for sectoral representation results in the exclusion from the right to organize of hundreds of thousands of workers in the informal sector. **Regretting the absence of progress in this respect, the Committee must once again urge the Government to take appropriate measures, in consultation with the social partners, to ensure that civil servants – including teachers – who are not covered by the LTU are fully ensured their freedom of association rights under the Convention, and that the legislation is amended accordingly. The Committee further encourages the Government to promote the full and effective enjoyment of these rights by domestic workers and workers in the informal economy and, to this effect, submit to tripartite consultations the possibility of allowing the formation of unions by sector or profession.**

*Article 3. Right to elect representatives freely. Requirements for leaders, managers, and those responsible for the administration of unions and of employer associations.* In its previous comments, the Committee had requested the Government to take the necessary measures to amend sections 20, 21 and 38 of the LTU – requiring those wishing to vote, to stand as a candidate for election, or be designated to leadership or management positions in unions or employer associations to meet a minimum age requirement (18), minimum literacy requirements and make a declaration that they have never been convicted for any criminal offence. On the one hand, the Committee notes with *interest* that the amendments to the LTU submitted by the Government remove the requirements of making a declaration that they have never been convicted of any criminal offense and, as to Khmer nationals, the literacy requirement. However, the Committee observes that the draft amendments submitted still impose literacy requirements on foreign nationals (sections 20 and 21). Moreover, the Committee observes that the draft submitted does not include a proposal to amend section 38, on the election of worker representatives in the enterprise or establishment. As the Committee had noted in its previous comments, this section also presents issues of compatibility with the Convention. **Having taken due note of the draft submitted, the Committee recalls its previous comments and expects that, in the context of its ongoing consultations on the amendment of the LTU, the Government will take the necessary measures to amend sections 20, 21 and 38 of the LTU to remove the requirement to read and to write Khmer from the eligibility criteria of foreigners. The Committee requests the Government to provide information on any developments in this respect.**

*Article 4. Dissolution of representative organizations.* In its previous comments the Committee had requested the Government to amend paragraph 2 of section 28 of the LTU, providing that a union is automatically dissolved in the event of a complete closure of the enterprise or establishment. The Committee observes that the draft amendments to the LTU submitted by the Government retain under paragraph 2 of section 28 the automatic dissolution of a union in the event of a complete closure of its enterprise or establishment, but add an additional condition: complete payment of workers’ wages

and other benefits. In this respect, the Committee considers that, while the payment of wages and other benefits may be one of the reasons why a union may have a legitimate interest to continue to operate after the dissolution of the enterprise concerned, there may be other legitimate reasons for it to do so (such as defending other legitimate claims). **Recalling that the dissolution of a workers' or employers' organization should only be decided under the procedures laid down by their statutes, or by a court ruling, the Committee requests once again the Government to take the necessary measures to amend section 28 of the LTU accordingly by fully removing its paragraph 2.**

*Grounds to request dissolution by Court.* In its previous comments the Committee had requested the Government to take the necessary measures to amend section 29 of the LTU, which affords any party concerned or 50 per cent of the total of members of the union or the employer association the right to file a complaint to the Labour Court to request a dissolution. Observing that the draft amendments to the LTU submitted by the Government do not modify the provision in question, and that members can always decide to leave the union, the Committee must recall once again that the manner in which members may request dissolution should be left to the organization's by-laws. **The Committee requests the Government to take the necessary measures to amend section 29 of the LTU to leave to the unions' or employers' associations own rules and by-laws the determination of the procedures for their dissolution by their members.**

The Committee had further requested the Government to take the necessary measures to remove paragraph (c) of section 29, which provides that a union or an employers' association shall be dissolved by the Labour Court in cases where leaders, managers and those responsible for the administration were found guilty of committing a serious act of misconduct or an offence on behalf of the union or the employer association. The Committee had recalled that if it is found that trade union officers have committed serious misconduct or offences through actions going beyond the limits of normal trade union activity – including actions carried out on behalf of the trade union – they may be prosecuted under the applicable legal provisions and in accordance with ordinary judicial procedures, without triggering the dissolution of the trade union and depriving it of all possibility of action. The Committee observes with *interest* that the amendments submitted by the Government remove from the LTU the above-mentioned paragraph. **The Committee requests the Government to provide a copy of the amendment removing paragraph (c) of section 29 of the LTU.**

#### **Application of the Convention in practice**

*Independent adjudication mechanisms.* In its previous comments the Committee had recalled the importance of ensuring the effectiveness of the judicial system as a safeguard against impunity, and an effective means to protect workers' freedom of association rights during labour disputes, as well as to address the serious concerns raised on the independence of the judiciary and its impact on the application of the Convention. The Committee had welcomed the Government's commitment to strengthen the Arbitration Council (AC) and trusted that the AC would continue to remain easily accessible and to play its important role in the handling of collective disputes, and that any necessary measures would be undertaken to ensure that its awards, when binding, are duly enforced. The Committee notes that the Government informs that it revoked the draft law on procedure of the labour courts and further notes with *interest* that the MLVT agreed to continue to provide financial support to the AC and study the possibility and launch a pilot on the settlement of individual labour rights disputes by the AC in early 2020. **The Committee requests the Government to continue to provide information in this respect, including as to any measures undertaken to ensure that the AC awards, when binding, are duly enforced.**

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: 1999)**

The Committee notes the observations of the International Trade Union Confederation (ITUC) dated 1 September 2019 referring to matters examined in this comment.

The Committee takes note of the comments of the Government in reply to the 2016 and 2017 ITUC observations. Concerning the allegations of extended use of short-term contracts to terminate employment of trade union leaders and members and weaken active trade unions, the Government states that the Law on Trade Unions (LTU) provides remedies for both dismissal or non-renewal of fixed-term contracts due to anti-union discrimination and, if verified, the labour inspectors instruct the employer to reinstate the workers or impose a substantial fine. The Government adds that, to avoid misinterpretation of legal provisions concerning fixed-term contracts, the Ministry of Labour and Vocational Training (MLVT) conducted consultations with the social partners and other actors, such as the Arbitration Council, and that a common understanding was reached that the maximum duration of fixed-term contracts would be four years and, if exceeding this maximum period, the contract would be considered as having unfixed duration. This was reflected in an Instruction on determination of the type of employment contract, issued by the MLVT on 17 May 2019. **While taking due note of the information provided, the Committee requests the Government to ensure that all measures are taken to monitor, in consultation with the social partners, that fixed-term contracts are not used for anti-union purposes, including through their non-renewal, and to continue to provide information in this respect.**

*Articles 1 and 3 of the Convention. Adequate protection against anti-union discrimination.* For many years several workers' organizations, in particular the ITUC – including in its most recent observations, have been denouncing serious and numerous acts of anti-union discrimination in the country. The Committee notes that the Government indicates in this regard that the MLVT: (i) issued an administrative letter on 31 May 2019 to all employers and their associations to ensure

strict and effective implementation of the provisions relating to anti-union discrimination; (ii) invited employers' representatives from 50 companies to disseminate information on the special protections against anti-union discrimination; and (iii) met with the representative of the Cambodia Labour Confederation (CLC) on two different occasions (13 June and 18 July 2019) to follow-up on its 44 cases before the courts (the Government informs that 11 of these were resolved with acquittal of charges and that the MVLVT is working closely with the Ministry of Justice to review the remaining cases). While welcoming the steps undertaken for the effective implementation of the protections against anti-union discrimination, the Committee observes that, other than the reference to two meetings with the CLC, it has not received more detailed information on the numerous and grave allegations of anti-union discrimination laid out in previous observations of workers' organizations. ***The Committee requests the Government to provide detailed information on the handling of the allegations of anti-union discrimination laid out in the observations of the ITUC in 2014, 2016 and 2019, and recalls the need to take all necessary measures to ensure that anti-union discrimination allegations are investigated by independent organs that enjoy the confidence of the parties and that, whenever such allegations are verified, adequate remedies and sufficiently dissuasive sanctions are applied.***

Furthermore, in its previous comments, the Committee urged the Government to ensure that national legislation provided adequate protection against all acts of anti-union discrimination, such as dismissals and other prejudicial acts against trade union leaders and members, including sufficiently dissuasive sanctions. The Committee had taken note, in this respect, of the ITUC's observations that penalties provided for under the LTU for anti-union practices by employers were too low (a maximum of 5 million Cambodian riels (KHR), equivalent to US\$1,250) and may not be sufficiently dissuasive. The Committee was of the view that fines for unfair labour practices provided for in the LTU may be a deterrent for small and medium-sized enterprises, but would not appear to be so for high-productivity and large enterprise cases. The Committee had thus invited the Government to assess, in consultation with the social partners, the dissuasive nature of sanctions in the LTU or any other relevant laws. The Committee notes that the Government replies by affirming that the existing legal mechanisms set out adequate protection against anti-union discrimination. The Government indicates that: (i) in addition to the application of the provisions and remedies in the LTU concerning anti-union discrimination (chapter 15), the LTU itself acknowledges (section 95) that other criminal laws may be applied to punish these actions (violence and discrimination against worker unions being criminal offences under sections 217 and 267 of the Penal Code) and that the employer could thus even face imprisonment, for example if the actions entailed violence; (ii) in addition to the fines imposed by the LTU, those affected can also claim compensation; (iii) the MVLVT has never received complaints or grievances from trade unionists regarding existing sanctions; and (iv) the Government is committed to further strengthening the capacity of labour inspectors and raising the awareness of workers on their rights. The Committee observes, on the other hand, that, while several consultation meetings were held on the review and amendment of the LTU, the Government does not indicate that, as recommended by the Committee, these tripartite fora were used to assess the effective and dissuasive nature of the protections against anti-union discrimination. Moreover, the Committee notes that the ITUC observations, in addition to the concrete cases noted above, denounce in general a lack of action and adequate protection against rampant anti-union discrimination. ***The Committee requests the Government to provide detailed statistical information on the application of the different mechanisms to protect against anti-union discrimination, including as to sanctions and other remedies effectively imposed, for example reinstatement or compensation. The Committee further requests the Government to assess, in light of such data, and in consultation with the social partners, the appropriateness of existing remedies, in particular the dissuasive nature of sanctions; and to provide information on any development in this regard.***

***Article 4. Recognition of trade unions for purposes of collective bargaining.*** In its previous observation, noting that the Government's statement that by lowering the most representative organisation threshold to 30 per cent, the law encouraged the increase of collective agreements, the Committee had invited the Government to assess the impact of the implementation of the LTU by providing statistics on: (a) the number of representative organizations identified based on their having secured at least 30 per cent of workers' support without an election, and the number of collective agreements concluded by these representative organizations; and (b) the number of separate elections organized based on no union having secured 30 per cent support, and the number of collective agreements concluded by the organizations so elected. The Committee notes that the Government provides the following information: (i) the number of representative organizations having secured at least 30 per cent of workers' support without election were four unions in 2018 (all in the garment sector, covering 3,226 workers) and 15 unions in 2019 (11 in the garment sector, covering 11,070 workers and four in the hotel sector, covering 890 workers); and (ii) the number of collective bargaining agreements concluded in 2018 and 2019 was seven (in 2018, four collective bargaining agreements were concluded between the employer and the shop steward; and, in 2019, three collective bargaining agreements between the employer and a most representative status union). The Government indicates that the information concerning point (b) above will be provided in its next report. The Committee further observes that the March 2017 direct contacts mission (DCM) recommended the Government to take the necessary measures, including issuing instructions to the competent authorities, to ensure that most representative status are recognized without delay and without the exercise of arbitrary discretion to workers' organizations or coalitions of organizations meeting the minimum threshold. In this respect, while noting that the Government indicates that it issued an Instruction on the Facilitation for the Most Representative Status Certification and that one of the objectives of the amendments to the LTU is to facilitate the requirements to obtain most representative status, the Committee observes that the number of organizations having secured at least 30 per cent of workers' support without election, as well as the number of collective bargaining agreements concluded, for 2018 and 2019, were very low. ***The Committee requests the Government to keep on***

*providing information on the number of organizations recognized as having the most representative status, and the number of collective agreements in force, indicating the parties that concluded the agreement (in particular, if a most representative union, a bargaining council or a shop steward), the sectors concerned and the number of workers covered by these agreements; as well as information on any additional measures undertaken to address the issues noted by the DCM concerning the recognition of most representative status organizations, and to promote the full development and utilization of collective bargaining under the Convention.*

*Articles 4, 5 and 6. Right to collective bargaining of public servants not engaged in the administration of the State.* In its previous comments the Committee had urged the Government to take the necessary measures, in consultation with the social partners, to ensure that public servants not engaged in the administration of the State, including teachers, who are governed by the Law on the Common Statute of Civil Servants and the Law on Education with regard to their right to organize, enjoy collective bargaining rights under the Convention. The Committee notes that, in its reply, the Government indicates that civil servants, including teachers, can form associations in accordance with the Law on Associations and Non-Governmental Organizations (LANGO), but does not provide any information on measures to ensure that public servants not engaged in the administration of the State can exercise the right to collective bargaining. ***Regretting the lack of progress in this respect, the Committee urges once again the Government to take the necessary measures, in consultation with the social partners, to ensure that public servants not engaged in the administration of the State, including teachers, enjoy collective bargaining rights under the Convention. The Committee requests the Government to report on any measures taken or envisaged in this regard and recalls that it may avail itself of the technical assistance of the Office.***

## Cameroon

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

The Committee notes the observations on the application of the Convention in practice, submitted by the International Transport Workers' Federation (ITF), the Cameroonian Confederation of Labour (CCT) and the Cameroon National Seafarers Union (SYNIMAC), with the endorsement of ITF affiliates in the country, including the Free National Union of Dockers and Related Activities of Cameroon ("SYNALIDOACC"), received on 4 September 2019. ***The Committee requests the Government to provide its comments thereon.***

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

*Application of the Convention in practice.* With reference to the observations of the International Trade Union Confederation (ITUC), received on 1 September 2016, regarding in particular cases of interference by the authorities in the elections of the Fako Agricultural Workers' Union (FAWU), and in the construction and health sectors, acts of vandalism on the premises of the Union of Agricultural Workers in Fako (DISAWOFA), anti-union harassment against members of a financial workers' union (FESYLTEFCAM) in the banking sector, and repeated police violence against strikers in the construction industry, the Committee notes with ***regret*** that the Government has not provided the detailed information requested.

Furthermore, no specific reply has been provided regarding the observations received on 6 September 2016 from Education International and its members from the education trade unions platform, according to which eight public sector teachers' unions are still not legally recognized despite the procedures they had followed to obtain accreditation from the competent authorities. The Government has confined itself to indicating that the delay in the registration of trade unions does not only affect teachers' unions, and that it is linked to the fact that the post of registrar had not been filled. ***Reiterating its concern regarding the allegations received, the Committee once again urges the Government to provide detailed comments on all of the issues raised.***

The Committee also notes the observations of the International Transport Workers' Federation (ITF), received on 4 September 2018, on the violent intervention by the police to suppress a strike movement initiated by dockworkers in the port of Douala on 22 June 2018, the arbitrary arrest of 32 dockworkers that followed, and the delay by the public authorities in carrying out an independent investigation. ***Noting with concern these new allegations of acts of violence by the police against strikers, the Committee urges the Government to provide comments and detailed information in this regard.***

*Legislative issues. Act on the suppression of terrorism.* The Committee recalls that, at its session in November 2016, the Committee on Freedom of Association made recommendations on the application of the Act on the suppression of terrorism (No. 2014/028 of 23 December 2014) and referred the case to the Committee of Experts for examination of the Act's conformity with the provisions of the Convention (see Case No. 3134, 380th Report). In this regard, the Committee wishes to draw the Government's attention once again to the following point: under section 2 of the Act, "the death penalty shall be imposed on anyone who ... commits or threatens to commit any act that may cause death, endanger physical safety, result in bodily injury or property damage or harm natural resources, the environment or the cultural heritage with the intention of: 1(a) intimidating the public, causing a situation of terror or forcing a victim, the Government and/or a national or international organization to carry out or refrain from carrying out a given act, adopting or renouncing a particular position or act according to certain principles; 2(b) disrupting the normal operation of public services or the delivery of essential public services, or creating a public crisis". The Committee reiterates its ***deep concern*** regarding the fact that some of these situations could apply to acts related to the legitimate exercise of activities by trade unions or employers' representatives in accordance with the Convention. The Committee refers in particular to protests, demonstrations and strikes that would have direct repercussions for public services. The Committee also recalls that, in light of the penalty that may be imposed, such a provision could be particularly intimidating for trade union or employers' representatives who speak out or take action within the context of their duties. ***While noting the Government's indication that the Committee's concerns will be taken into account in the application of the Act and that the legislation only addresses acts of terrorism, the Committee urges the Government to take the measures necessary to amend section 2 of the Act on the suppression of terrorism to ensure that it does not apply to the legitimate activities of workers' and employers' organizations, which are protected under the Convention. In the meantime, the Committee requests the Government to continue***

*providing information on the measures taken to ensure that: (i) the implementation of this Act does not have harmful consequences on officials and members engaged in their functions, and performing trade union or employer activities pursuant to Article 3 of the Convention; and (ii) the Act is enforced in such a way that it is not perceived as a threat or intimidation towards trade union members or the whole trade union movement.*

*Legislative reform. Articles 2 and 5 of the Convention.* For many years, the Committee has been recalling the need to: (i) amend Act No. 68/LF/19 of 18 November 1968 (under the terms of which the legal existence of a trade union or occupational association of public servants is subject to prior approval by the Minister of Territorial Administration); (ii) amend sections 6(2) and 166 of the Labour Code (which lay down penalties for persons establishing a trade union which has not yet been registered and acting as if the said union had been registered); and (iii) repeal section 19 of Decree No. 69/DF/7 of 6 January 1969 (under the terms of which trade unions of public servants may not affiliate to an international organization without obtaining prior authorization). *The Committee urges the Government to provide information on any progress or developments in this regard.*

*Noting once again with deep regret that, according to the information provided by the Government, the process of revising the Labour Code has still not been completed, the Committee is bound once again to urge the Government to finalize the legislative revision process, without further delay, so as to give full effect to the provisions of the Convention on the abovementioned points.*

*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: 1962)**

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 on the application of the Convention in practice by the International Trade Union Confederation (ITUC), Educational International (EI) and its affiliates from the Education Trade Unions Platform, the Cameroon Workers' Trade Union Confederation (CSTC), and the Cameroon United Workers' Confederation (CTUC) received on 1 September, 6 September, 30 August and 14 November 2016, respectively.

*Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* The Committee notes the observations of the ITUC denouncing, inter alia, acts of anti-union discrimination against trade union leaders and trade unionists in the banking sector and interference by the employer and the authorities in the elections of a trade union in the agricultural sector. It also notes the observations of the CTUC denouncing interference by an enterprise in the activities of a trade union in the wood industry and dismissal by the enterprise, in question of more than 150 workers based solely on their trade union affiliation. *The Committee notes with concern the seriousness of some of the incidents alleged and urges the Government to take all necessary measures to ensure that the competent authorities, particularly the labour inspectorate, conduct the necessary enquiries into these alleged acts of anti-union discrimination and interference, and to take the necessary remedial measures without delay and apply suitable penalties if the trade union rights recognized in the Convention are found to have been impaired in some administrations or enterprises. The Committee urges the Government to provide its comments and detailed information in this regard.*

In its previous comments, the Committee took note of observations received in September 2013 from the General Union of Workers of Cameroon (UGTC) concerning acts of anti-union discrimination against the executives of an organization (SNEGCBFCAM) affiliated to the National Social Welfare Fund. The Committee observes that this case was the subject of a complaint to the Committee on Freedom of Association, whose latest recommendations date from March 2015 (Case No. 2808, 374th report). *Noting that in a communication received on 17 October 2016, the UGTC reports that for the SNEGCBFCAM the situation has worsened, the Committee urges the Government to implement the recommendations of the Committee on Freedom of Association and to provide information without delay on the situation of the SNEGCBFCAM and its members.*

*Article 4. Right to collective bargaining in practice.* The Committee noted in previous comments the allegations made by the ITUC and the UGTC concerning the ongoing absence of collective bargaining in the public sector and the difficulties met in implementing the collective agreements concluded in the media and security sectors. The Committee notes that the Government indicates that it is for the signatories to the media sector agreement to implement it. As regards the collective agreement of the security services, the Government indicates that the public authorities are applying measures to reorder the sector, which has slowed down the process to revise the collective agreement. Furthermore, the Government indicates that collective bargaining in the public sector proceeds unhindered. The Committee notes the observations of the EI and its members belonging to the Education Trade Unions Platform, which brings together most of the teachers' unions in Cameroon, denouncing a lack of will on the Government's part to implement the agreements signed with the trade unions for public and private education, and the exclusion of trade unions from the consultative bodies of the sector. The Committee also notes the CSTC's observations alleging unilateral appointment by the Ministry of Labour of workers' representatives to the bargaining committees for national collective agreements, without taking into account the representativeness of the organizations in the sectors concerned. *In view of the CSTC and EI observations, the Committee requests the Government to indicate the measures to encourage and promote collective bargaining taken by the authorities pursuant to Article 4 of the Convention, and to specify the sectors concerned. The Committee also requests the Government to provide statistical information on the number of collective agreements signed and in force, in both the public and private sectors, and on the number of sectors and workers covered by them.*

Lastly, the Committee notes the Government's indication that studies are under way to examine the matter of ratification of the Labour Relations (Public Service) Convention, 1978 (No. 151), and the Collective Bargaining Convention, 1981 (No. 154). *The Committee requests the Government to indicate the outcome of the studies.*

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

## Canada

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

The Committee notes the observations of the Canadian Labour Congress (CLC) received on 31 August 2019, concerning issues examined in the present observation.

#### **Article 2 of the Convention. Right to organize of certain categories of workers.**

*Province of Alberta.* The Committee recalls that it had previously requested the Government to provide information on the outcome of the technical discussions with respect to the application of the Labour Relations Code (LRC) to agricultural workers, as well on the outcome of the review of the LRC and the Post-secondary Learning Act with respect to architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, nursing personnel and higher educational staff in Alberta. The Committee notes that the Enhanced Protection for Farm and Ranch Workers Act came into effect in January 2018, and that with this act, waged, non-family farm and ranch employees have the same statutory rights as most of the employees in Alberta, regarding the opportunity to be represented by a bargaining agent. As to the extension of full associational and collective bargaining rights to academic staff at Alberta's post-secondary institutions, the Committee notes that following the review of the Post-secondary Learning Act, both academic and non-academic staff at post-secondary learning institutions have a statutory right to organize and enjoy the freedom of association rights. Regarding the other categories of workers mentioned above, the Government indicates that nothing prevents them from associating and organizing. **While noting that nothing impedes architects, dentists, land surveyors, lawyers, doctors, engineers, domestic workers, nursing personnel from associating and organizing, the Committee requests the Government to specify under which legislative provisions the above-mentioned categories enjoy their right to organize as well as other rights recognized under the Convention.**

*Province of Ontario.* The Committee notes that the Agricultural Employees' Protection Act (AEPA) was amended in order to expand its scope to ornamental horticulture starting on 3 April 2019. As to the exclusion of agricultural workers from the Labour Relations Act (LRA), the Government once again indicates that the AEPA protects the right of agricultural workers in Ontario to form and join associations. The Committee notes however that, according to the Changing Workplaces Review final report (CWR), commissioned by the Ministry of Labour and released in 2017, the AEPA does not clearly state that such employees have the right to join a trade union and participate in lawful activities, and neither does it provide agricultural workers with the right to strike nor any alternative dispute resolution. The Committee further notes that the Government once again indicates that it does not have any statistics on the number of workers represented by an employee association or trade union. **Recalling the value of statistical information for assessing the effective implementation in practice of the Convention, the Committee requests the Government to gather and provide information on the number of workers represented by an employee association or trade union under the AEPA. It also requests the Government to take any additional measures to guarantee that agricultural workers enjoy the right in law and in practice to establish and join organizations of their own choosing, as well as other rights recognized in the Convention.** With respect to the other excluded categories of workers (architects, dentists, land surveyors, lawyers, doctors, engineers, principals and vice-principals in educational establishments, community workers and domestic workers), the Committee had previously noted that the above exclusions of the LRA were going to be considered by the ongoing review of Ontario's labour and employment legislation. In this respect, the Committee notes that despite the recommendations of the Special Advisers leading the CWR with regard to the repeal of those exclusions, no changes were made during the 2016–19 period. The Committee notes, furthermore, the Government's indication that labour laws are not appropriate for non-industrial settings, such as private homes and professional offices. **While taking due note of the final report of the CWR and the Government's statement on the inadaptability of the labour laws to non-industrial settings, the Committee invites the Government to take all necessary measures, in consultation with social partners, to ensure that the above categories have the right in law and in practice to establish and join organizations of their own choosing, as well as other rights recognized under the Convention.**

*Province of New Brunswick.* The Committee notes that the Government acknowledges the negative effect of excluding domestic workers from the scope of the Employment Standards Act and that consultations were held in September 2016 regarding possible amendments to the aforementioned Act, which encompasses repealing the exclusion. The Government further informs that it is currently conducting a technical review of the Domestic Workers Convention, 2011 (No. 189). **The Committee hopes that the consultations and the technical review will be finalized in the near future and that all necessary measures will be taken to ensure that domestic workers enjoy the right to organize and other guarantees under the Convention. The Committee requests the Government to keep it informed on any development in this regard.**

*Other provinces. Nova Scotia, Prince Edward Island and Saskatchewan.* With regard to the exclusion of architects, dentists, land surveyors, doctors and engineers, the Committee notes that: (i) in Nova Scotia, although no legislative changes were made, doctors are de facto represented by Doctors Nova Scotia, an association bargaining with the Government on behalf of doctors and residents; (ii) in Prince Edward Island, no information was provided by the Government regarding the above exclusions; and (iii) in Saskatchewan, the above categories are not explicitly excluded from being certified as a bargaining unit and therefore do have the right to organize, for example, lawyers at the provincial Legal Aid Commission

are unionized. With regard to the exclusion of domestic workers in Saskatchewan, the Committee notes the Government's indication that some categories of workers, including domestic workers, face a practical limitation on organizing as a result of the definition of "employer", defined as "an employer who customarily or actually employs three or more employees", with the purpose of ensuring viability of the bargaining unit. **While noting that nothing impedes architects, dentists, land surveyors, doctors, and engineers from associating and organizing, the Committee requests the Government to specify under which legislative provisions the above-mentioned categories enjoy their trade union rights as well as other rights recognized in the Convention. Regarding the practical limitation to unionization faced by domestic workers, the Committee invites the Government to take all necessary measures, in consultation with social partners, to ensure that domestic workers enjoy, in law and in practice, the right to organize, as well as other rights under the Convention.**

*Article 3. Right of employers' and workers' organizations to organize their activities and to formulate their programmes. Essential services. Economic Action Plan (Bill C-4).* In its previous comments, the Committee had noted that the adoption of the Economic Action Plan Act in 2013 permitted the federal government the exclusive power to determine and designate unilaterally the essential services for the safety and security of the public and impose arbitration as the dispute resolution mechanism in cases where 80 per cent or more of the positions in a bargaining unit were deemed essential. The Committee notes with *satisfaction* that on 26 November 2018, Bill C-62 "An Act to Amend the Federal Public Sector Labour Relations Act and Other Acts" received royal assent and, as a result, the employer no longer has the exclusive right to determine which services are essential and designate positions necessary to deliver these services. The Committee further notes that, as a result, when a conciliation/strike has been selected by the bargaining agent as the dispute resolution mechanism in collective bargaining, the employer and the bargaining agent must collectively negotiate essential services and conclude an Essential Services Agreement.

*Province of Saskatchewan. Employment Act.* In its previous observations, the CLC expressed concern that the Saskatchewan Employment Act increased the number of employees not eligible for trade union membership by declaring their job duties confidential. On that occasion, the Committee pointed out that the definition of "employee" excluded anyone exercising authority and performing managerial or confidential functions, and that the term "union", "labour organization" and "strike" were defined in the Act with reference to the term "employee". The Committee notes the Government's indication that there were extensive consultations in 2012 when considering the labour relations sections (Part IV) of the Employment Act and that some provisions in the Act required a review within a revolving ten-year period and therefore another review of the labour relations provision would occur around 2024. The Committee refers to its previous recommendations, in which it reminded the Government that although it is not necessarily incompatible with *Article 2* to deny workers who perform managerial functions or are employed in its confidential capacity to belong to the same trade unions as other workers, this category should not be defined so broadly as to weaken the organizations of other workers in the enterprise or branch of activity by depriving them of substantial proportion of their present or potential membership. **The Committee hopes that the Government will take all appropriate measures in a near future to ensure the review of The Saskatchewan Employment Act, in consultation with social partners, with a view to bringing it into full conformity with the above-mentioned considerations. The Committee also requests the Government to provide information on the number of employees declared "confidential" and thus not eligible for trade union membership, disaggregated by enterprises or branches of employment.**

## Central African 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.

*Articles 2, 3, 5 and 6 of the Convention. Labour Code.* In its previous comments, the Committee highlighted the need to amend the following legislative provisions:

- section 17 of the Labour Code, which limits the right of foreign nationals to join trade unions by imposing conditions of residence (two years) and reciprocity;
- section 24 of the Labour Code, which limits the right of foreign nationals to be elected to trade union office and executive functions by imposing a condition of reciprocity;
- section 25 of the Labour Code, which renders non-eligible for trade union office persons sentenced to imprisonment, persons with a criminal record or persons deprived of their right of eligibility under national law, even where the nature of the relevant offence is not prejudicial to the integrity required for trade union office;
- section 26 of the Labour Code, under which the union membership of minors under 16 years of age may be opposed by parents or guardians despite the minimum age for admission to employment being 14 years under section 259 of the Labour Code;
- section 49(3) of the Labour Code, under which no confederation may be established without the prior existence of occupational or regional federations.

In its previous comments, the Committee also noted the Government's earlier indication, in its report submitted in 2014, that the requested amendments to the Labour Code were the subject of an implementing decree which was in the process of being adopted. The Committee notes with *regret* the absence of any new information concerning this decree. The Committee notes the Government's indication that sections 17, 24 and 26 of the Labour Code are based on the provisions of the Criminal Code and the

Code of Criminal Procedure and that section 25 of the Labour Code is based, among others, on the provisions of the Criminal Code, the Code of Criminal Procedure and section 4 of Order No. 3899/IGT/LS of 9 December 1953 on the institution of staff delegates in French Equatorial Africa. The Government indicates that when the national employment and training policy document was adopted in the last quarter of 2016 with ILO support, the participants recommended a review of the Labour Code in which the provisions conflicting with the relevant principles in certain Conventions would be subject to a specific examination. ***The Committee hopes that the Government will continue, in consultation with the social partners, the efforts made to complete this review and specific examination of the Labour Code and requests it to indicate any progress made in this regard.***

With respect to section 49(3) of the Labour Code, the Committee notes the Government's explanation that the confederations are central organizations which can only result from the grouping of regional and occupational federations.

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: 1964)***

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. Adequate protection against acts of interference. Section 30(2) of the Labour Code.* In its previous comments, the Committee considered that section 30(2) of the Labour Code does not cover all of the acts of interference prohibited by *Article 2* of the Convention. The Committee also noted the Government's indications that implementing regulations would be adopted to cover all of the acts of interference envisaged in *Article 2* of the Convention, and that these regulations would also specify the penalties applicable in cases of violations of section 30(2) of the Labour Code.

The Committee notes the Government's indication that section 152 of the Labour Code contributes to the protection of unionized workers against acts of interference by the employer by providing that terminations are unjustified when based on the opinions of the worker, the worker's trade union activities or membership or not of a specific union.

The Committee however observes that, in relation to the implementation of the Convention, section 152 of the Labour Code affords protection to workers in the event of the unjustified termination of the employment contract, including in cases of anti-union dismissal, but does not provide specific protection against acts of interference. ***The Committee therefore once again requests the Government to provide information on any progress achieved concerning the adoption, as previously announced, of regulations broadening the protection against the acts of interference set out in section 30(2) of the Labour Code and establishing penalties in this regard.***

*Article 4. Promotion of collective bargaining. Section 40 of the Labour Code.* In its previous comments, the Committee noted that, in accordance with section 40 of the Labour Code, collective agreements must be discussed by the delegates of employers' and workers' organizations belonging to the occupation or occupations concerned. Recalling that the level of bargaining should normally be a matter for the social partners themselves, the Committee requested the Government to indicate whether federations and confederations have the right to collective bargaining and to indicate the legislative provision which grants them this right.

The Committee notes the Government's affirmation that federations and confederations are included in occupational unions, which therefore gives them the right to negotiate collective agreements. The Committee notes this indication. ***However, observing that no provision of the Labour Code appears to explicitly recognize the right of federations and confederations to conclude collective agreements, the Committee requests the Government to provide copies of collective agreements negotiated and concluded by federations or confederations.***

*Sections 197 and 198 of the Labour Code.* In its previous comments, the Committee noted with regret that, under the terms of sections 197 and 198 of the Labour Code, representatives of trade union organizations and occupational groupings of workers (non-unionized) are on an equal footing in relation to collective bargaining. Recalling that *Article 4* of the Convention promotes collective bargaining between employers' and workers' organizations, the Committee had requested the Government to indicate the measures taken to ensure that occupational groupings of workers can only negotiate collective agreements with employers where no trade union exists in the bargaining units concerned.

***Noting the Government's indication that measures are currently being taken with a view to amending sections 197 and 198 of the Labour Code, the Committee hopes that the Government will be in a position to report in the near future specific progress in the amendment of the above legislative provisions with a view to ensuring that occupational groupings of workers can only negotiate collective agreements with employers when there is no union in the bargaining units concerned.***

*Sections 367 to 370 of the Labour Code.* In its previous comments, the Committee requested the Government to envisage amending sections 367 to 370 of the Labour Code, which appear to establish a procedure whereby all collective disputes are subject to conciliation and, failing resolution, to arbitration.

The Committee notes the Government's indication that the urgent procedure of attempted conciliation and arbitration envisaged in sections 367 et seq. of the Labour Code is intended to resolve disputes within a reasonable period. ***Recalling that, by virtue of the principle of the promotion of free and voluntary collective bargaining set out in Article 4 of the Convention, recourse to compulsory arbitration in the case of disagreement between the parties to 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 or in the event of an acute national crisis, the Committee reiterates its request for the amendment of sections 367–370 of the Labour Code.***

*Articles 4 and 6. Public servants not engaged in the administration of the State. Section 211 of the Labour Code.* In its previous comments, the Committee noted that section 211 of the Labour Code only provides for the right to collective bargaining in public services, enterprises and establishments for personnel not governed by specific conditions of service.

The Committee notes the Government's indication that the right to bargaining established in the Labour Code cannot be applied to all personnel in public services, enterprises and establishments, except for employees recruited under private law, as public servants are excluded from the scope of application of the Labour Code.

The Committee recalls that, under the terms of *Article 6* of the Convention, a distinction has to be made between, on the one hand, public servants who, through their functions, are directly engaged in the administration of the State (for example, in certain countries, officials in government ministries and other similar bodies and their auxiliary personnel), who may be excluded from the

scope of application of the Convention and, on the other, all other persons employed by the Government, public enterprises or autonomous public institutions, who should benefit from the guarantees set out in the Convention (for example, employees in public enterprises, employees in municipal services and employees in other decentralized bodies, as well as public sector teachers). **Emphasizing that only public servants engaged in the administration of the State may be excluded from the scope of application of the Convention, the Committee requests the Government to indicate the categories of public sector workers who are subject to specific conditions of service, and accordingly excluded from the scope of application of the Labour Code, and to indicate any texts which may accord certain of these categories the right to negotiate their terms and conditions of work and employment.**

*Observations of the International Trade Union Confederation (ITUC).* In its previous comments, the Committee requested the Government to reply to the observations of the ITUC alleging the absence of collective bargaining in the wage determination process in the public sector and to indicate the measures taken to promote machinery for the negotiation of terms and conditions of employment in the public sector. The Committee notes with *regret* that the Government does not provide any information in this regard. **While taking duly into account the difficulties currently experienced by the country, the Committee once again requests the Government to indicate the measures taken to promote machinery for the negotiation of terms and conditions of work and employment in the public sector.**

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.**

## Chad

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

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 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 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 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: 1998)**

*Article 1 of the Convention. Scope of application.* Noting in its previous comments that section 3 of the General Public Service Regulations excludes from their scope of application local government officials, employees in public establishments and auxiliary personnel employed by the administration, the Committee requested the Government to indicate the legal texts in force which recognize for all these different categories of public employees the rights and guarantees envisaged by the Convention. The Committee notes the Government's indication that the situation of contractual employees is governed by the collective agreement of 7 December 2012. **The Committee requests the Government to provide with its next report a copy of the collective agreement in question.**

*Articles 4–8 of the Convention.* In its previous comments, the Committee urged the Government to take measures to ensure that: (i) the legislation includes express provisions ensuring adequate protection for public employees against discrimination on the grounds of their trade union membership or activities, as well as adequate protection against acts of interference; and that (ii) through the legislation or by other means, facilities are afforded to the representatives of recognized public employees' organizations in order to allow them to perform their functions promptly and efficiently both during working hours and at other times. Furthermore, the Committee urged the Government to provide a copy of the Decree determining the composition, operation and appointment of the members of the Public Service Advisory Committee, and to indicate any consultations or agreement concluded with trade union organizations in the public sector over recent years.

Lastly, the Committee urged the Government to take measures to establish a procedure offering guarantees of independence and impartiality (such as mediation, conciliation or arbitration) with a view to settling disputes arising out of the determination of the terms and conditions of employment of public employees.

The Committee notes with *regret* that the Government merely indicates that the rights and guarantees envisaged by the Convention are governed by the collective agreement of 7 December 2012, without distinguishing between the situation of contractual and other public employees. ***The Committee expects the Government to provide, in its next report, detailed information on the aforementioned points in respect of all public employees, including those covered by the General Public Service Regulations.***

## Chile

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1999)***

The Committee notes the observations on the application of the Convention in law and practice (including allegations of violations in the public, food, transport and copper sectors) provided by the following organizations: the National Association of Fiscal Employees (ANEF), received on 29 August 2019; the Confederation of Copper Workers (CTC), the General Confederation of Public and Private Sector Workers (CGTP), and the World Federation of Trade Unions (WFTU, taking up the observations of the CGTP), all received on 30 August 2019; the International Trade Union Confederation (ITUC), received on 1 September 2019; as well as the observations of the Federation of Workers' Unions of Chile (FESINTRACH), received on 2 September 2019, the No. 1 Promoter CMR Falabella Enterprise Union, received on 20 September 2019, and the Single Central Organization of Workers of Chile (CUT), received on 26 October 2019. ***The Committee requests the Government to provide its comments in this regard.*** Noting that the Government has not replied to the various requests made in its previous comments, including with regard to the multiple observations made by social partners in 2016, the Committee trusts that it will receive the missing information in the next report.

The Committee notes that a complaint has been made under article 26 of the ILO Constitution alleging failure to comply with this and other ILO Conventions by the Republic of Chile, made by a Worker delegate to the International Labour Conference in 2019, which has been declared receivable and is pending before the Governing Body.

*Articles 2 and 3 of the Convention. Legislative matters not covered by the reform of the Labour Code.* In its previous comment, while noting with satisfaction the amendment or repeal of various provisions of the Labour Code which were not in conformity with the Convention, the Committee observed that the following provisions had not yet been brought into conformity with the Convention;

- Amendment of article 23 of the Political Constitution, which provides that the holding of trade union office is incompatible with active membership of a political party and that the law shall establish penalties for trade union officials who engage in party political activities. In its previous comments, the Committee welcomed the submission of a draft constitutional amendment in October 2014 to remove these restrictions, but noted that the draft had not been approved.
- Amendment of section 48 of Act No. 19296, which grants broad powers to the Directorate for Labour for the supervision of the accounts and financial assets and property of associations. In its previous comment, the Committee noted the Government's indication that the approach adopted by the Directorate for Labour in that regard is consistent with the principles of freedom of association and leaves it to organizations to control their own accounts, financial assets and property; and that a protocol agreement had been agreed between the Government and the public sector round-table of 2014 which included the commitment to address possible amendments to Act No. 19296.
- Repeal of section 11 of Act No. 12927 on the internal security of the State, which provides that an interruption or strike in certain services may be penalized with imprisonment or banishment, and the amendment of section 254 of the Penal Code, which establishes criminal penalties in the event of the interruption of public services or public utilities or dereliction of duty by public employees. In its previous observation, the Committee noted the Government's indication that these provisions had not been applied and recalled that no penal sanction should be imposed on a worker for participating peacefully in a strike, which is merely exercising an essential right, and therefore that sentences of imprisonment or fines should not be imposed.

The Committee observes that in its latest report the Government has not provided any further information on the application, amendment or repeal of these provisions, and that the observations of the various social partners continue to denounce the incompatibility of these provisions with the Convention. ***The Committee once again expresses the hope that the Government will take the necessary measures in the very near future to bring these provisions into conformity with the Convention and requests it to report any developments in this regard.***

*Article 3. Right of organizations to organize their activities and to formulate their programmes. Exclusion from strike action of enterprises declared to be strategic.* Section 362 of the Labour Code, under the heading of the determination of enterprises in which the right to strike may not be exercised, provides that a strike may not be called for workers providing services in corporations or enterprises, irrespective of their nature, purpose or function, which provide

services of public utility or the cessation of which would cause serious damage to health, the national economy, the provision of supplies to the population or national security. In its previous comment, the Committee recalled that this definition of enterprises in which the right to strike cannot be exercised, to be approved jointly by various ministries and subject to appeal to the Court of Appeal, potentially covers services which go beyond the definition of essential services in the strict sense of the term (those the interruption of which may endanger the life, personal safety or health of the whole or part of the population). Recalling that the prohibition of strikes relating to the services provided should be limited to essential services in the strict sense of the term, the Committee reiterated that the concepts of public utility and of damage to the economy are broader than that of essential services. The Committee also observed that “services of public utility” would already be covered by the system of minimum services established in section 359, which is distinct from the concept of essential services in the strict sense of the term.

Observing that the Government has not provided the requested information on the application of this provision in practice, the Committee notes that, according to the indications of the ITUC, under the terms of this provision a list was approved in August 2017 of 100 enterprises considered to be strategic and excluded from the exercise of the right to strike, which include enterprises in the health and energy sectors, and that 14 unions have lodged appeals in this regard with the Court of Appeal. The Committee also notes that in August 2019 a new list was published of enterprises considered to be strategic and excluded from the exercise of the right to strike (43 enterprises were removed from the former list of 100 enterprises, and 15 new enterprises were added). ***While considering that section 362 of the Labour Code should be amended to ensure that the prohibition of the right to strike can only cover essential services in the strict sense of the term, the Committee once again requests the Government to provide information on the application in practice of section 362 of the Labour Code, with an indication of the various categories of services provided by the enterprises excluded from the exercise of the right to strike, and the action taken in relation to any complaints lodged in this respect. The Committee recalls that, without calling into question the right to strike of the large majority of workers, a negotiated minimum service may be established for public services of fundamental importance that are not essential services in the strict sense of the term.***

***Replacement of workers.*** In its previous comment, while on the one hand the Committee noted with satisfaction the introduction in the Labour Code of a prohibition to replace striking workers, as well as the sanctions in the event of such a replacement (sections 345, 403 and 407) on the other hand, it noted that, according to the CGTP, other recently introduced provisions could undermine or introduce uncertainty into such prohibition to replace striking workers. The CGTP referred, in particular, to the possibility envisaged in new section 306 of the Labour Code for an enterprise that has subcontracted work or services to another enterprise to carry out directly or through a third party the subcontracted work or services interrupted due to a strike (in this regard, the CGTP alleged that over 50 per cent of workers in the country work in subcontracting enterprises). The Committee requested the Government to provide its comments on the observations of the CGTP and to report on the application in practice of sections 306, 345, 403 and 407, including the sanctions imposed for the replacement of striking workers, and on the impact of the hiring of workers under section 306 on the workers or services interrupted due to a strike. The Committee notes that the Government reports various legal opinions issued by the Directorate for Labour concerning these provisions, including an opinion that it is not in accordance with the law for an enterprise providing temporary services to provide workers to a principal enterprise for the performance of work or services which have been interrupted due to a strike by workers in the enterprise contracted to perform them. The Committee welcomes these clarifications, while noting that the Government has not provided further information on the application in practice of the above-referred provisions. The Committee also notes that the issue of the replacement of workers is the subject of additional observations by the social partners. In this respect, the CTC indicates that section 403 of the Labour Code supports the internal replacement of striking workers, and the CGTP denounces the fact that the authorities have allowed the replacement of striking workers in the public passenger transport sector in Santiago de Chile. ***The Committee requests the Government to provide its comments on the observations of the social partners on these matters, and to provide further information on the application in practice of sections 306, 345, 403 and 407, including on the sanctions applied for the replacement of striking workers, and on the impact of the hiring of workers under section 306 on workers or services interrupted due to a strike.***

***Exercise of the right to strike beyond the framework of regulated collective bargaining.*** In previous comments, the Committee noted that, in general terms, the exercise of the right to strike is regulated exclusively within the framework of regulated collective bargaining. In this respect, the Committee referred to the recommendations made to the Government by the Committee on Freedom of Association (CFA), in which: (i) given that existing legislation does not permit strike action outside the context of the collective bargaining process, the CFA requested the Government, in consultation with workers’ and employers’ organizations, to take all necessary steps to amend the legislation in line with the principles of freedom of association (Case No. 2814, 367th Report, paragraph 365); and (ii) recalling the principle that the occupational and economic interests that workers defend through the right to strike do not only concern better working conditions or collective claims of an occupational nature, but also the seeking of solutions to economic and social policy questions and problems facing the enterprise which are of direct concern to the workers, the CFA requested the Government to take all the necessary measures, including legislative measures if necessary, to uphold this principle, and to submit the legislative aspects of the case to the Committee of Experts (Case No. 2963, 371st Report, paragraph 238).

In this regard, certain social partners (see for example, the observations of the ITUC in 2016, the CGTP in 2016 and 2019, and the CTC in 2019) have been denouncing the failure to protect the right to strike outside the framework of regulated collective bargaining. The Committee also noted that a ruling of 23 October 2015 of the Court of Appeal of Santiago held that the sole fact that the law regulates strike action in one instance, that is in the context of regulated collective bargaining, cannot lead to the conclusion that outside that context strikes are prohibited, based on the understanding that matters that the legislature has failed to regulate or define cannot be held to be prohibited (the Committee refers to other recent rulings along these same lines, such as the ruling by the Labour Court of Antofagasta of 6 August 2019, finding that the right to strike is an essential right regulated by the Convention and that the Supreme Court has found that the right to strike is guaranteed even outside the framework of collective bargaining procedures). ***In light of the judicial decisions referred to above, the Committee once again requests the Government to provide its comments on the observations of the social partners denouncing the failure to protect the right to strike outside the framework of regulated collective bargaining and to provide information on any measures taken in relation to the recommendations referred to 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: 1999)***

The Committee notes the observations relating to the application of the Convention in law and practice (including allegations of violations in the public, financial, transport, food and copper sectors) provided by the following organizations: the Confederation of Copper Workers (CTC), the General Confederation of Public and Private Sector Workers (CGTP) and the World Federation of Trade Unions (WFTU, taking up the observations of the CGTP), all received on 30 August 2019; the International Trade Union Confederation (ITUC), received on 1 September 2019; and the observations of the Federation of Workers Unions of Chile (FESINTRACH), received on 2 September 2019, the No. 1 Promotion CMR Falabella Enterprise Union, received on 20 September 2019, and the Single Central Organization of Workers of Chile (CUT-Chile), received on 26 October 2019. ***The Committee requests the Government to provide its comments in this regard.*** Observing that the Government has not replied to the various requests made in its previous comments, including in relation to the many observations provided by the social partners in 2016, the Committee trusts that it will receive the missing information in the next report.

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-compliance with this and other ILO Conventions by the Republic of Chile, submitted by a Worker delegate to the 2019 International Labour Conference, was declared receivable and is pending before the Governing Body.

***Article 1 of the Convention. Anti-union discrimination.*** In its previous comment, the Committee, welcoming the provisions adopted to broaden and strengthen protection against anti-union discrimination, requested the Government, in the light of the considerations outlined by the Committee on Freedom of Association, and the observations of the social partners, to provide information on the impact in practice of the new provisions, evaluating in particular their effective application and dissuasive effect. The Committee notes the Government's response to the observations of the CGTP and the ITUC in this respect: (i) referring to the applicable provisions of the Labour Code on anti-union and unfair practices (sections 289–292 and 403–406), and recalling that the resolution of complaints is the responsibility of the labour courts, the Government indicates that as a result of the labour reform introduced through Act No. 20940, the legislation establishes distinctions based on the size of the enterprise, with a heavier system of sanctions for medium-sized and large enterprises, and places emphasis on the objective nature of anti-union acts, irrespective of whether they are intentional or not; (ii) the Government indicates that a register is maintained of convictions for anti-union or unfair practices in collective bargaining and the list of enterprises and organizations that are non-compliant is published every six months, with an indication of the acts penalized and fines imposed; the Government refers in this regard to the data on the rulings issued between 2016 and the first half of 2019 (which show that on average there were over 42 convictions each year); (iii) with regard to the legislative requirement to indicate the name of all workers who are members of a union, the Government indicates that, rather than facilitating anti-union discrimination, the provision has a protective purpose by giving effect to the trade union protection enjoyed by such workers under section 309 of the Labour Code (from ten days prior to the submission of the draft collective agreement until 30 days following its conclusion, and that if during this period the workers in question are dismissed, the Directorate for Labour has a special investigation procedure with the purpose of requiring reinstatement); in this regard, it emphasizes the need to know which workers are engaged in collective bargaining; it is also based on other considerations (for example, in order to identify the workers concerned in the event of tacit acceptance by the employer), and it specifies that, once the protection afforded for collective bargaining has expired, section 294 of the Labour Code provides for a procedure for setting aside any anti-union dismissal; and (iv) with reference to claims concerning the existence of obstacles and the lack of mechanisms and means to denounce and penalize anti-union practices, the Government indicates that, during the first half of 2019, there were 26 rulings penalizing anti-union or unfair practices in collective bargaining which were given effect and, in 23 of these cases, fines were imposed of between 20 and 300 monthly tax units (approximately equivalent to between US\$1,350 and \$20,400); and that a total of 6,992 complaints of anti-union and unfair practices were made between 2013 and March 2018 to the Directorate for Labour, of which 352 related to unlawful individual reinstatement (abandoning a strike to individually negotiate labour conditions) or the replacement of striking workers (with 62 per cent of the complaints relating to reinstatement and replacement being upheld). The Committee also notes that the observations of the social partners include new allegations of anti-union discrimination, and claims that the

system of protection against anti-union discrimination is still ineffective and not dissuasive (indicating, for example, that even the maximum penalty of 300 monthly tax units is not dissuasive for a multinational enterprise). ***While welcoming the detailed explanations and information provided by the Government, the Committee invites it to engage in dialogue with the most representative organizations on the evaluation of the system of protection against anti-union discrimination described above, with an assessment in particular of its application in practice and its dissuasive effect. The Committee requests the Government to continue providing information in this regard.***

*Article 4. Promotion of collective bargaining. Workers' organizations and negotiating groups.* In its previous comment, the Committee noted that: (i) the Constitutional Court found that it would be unconstitutional to provide that workers can only negotiate through unions, considering that, in accordance with the Chilean Constitution, collective bargaining is the right of each and every worker and that this Convention and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) ratified by Chile do not require negotiating groups to be excluded from domestic legislation; and (ii) the Government indicated that only collective bargaining with trade unions is regulated by the Labour Code, and that this situation was being assessed with the social partners, and that the Government trusted that a satisfactory solution would be reached in accordance with the Workers' Representatives Convention, 1971 (No. 135). The Committee notes the Government's indication in its latest report that: (i) in view of the ruling of the Constitutional Court, the Directorate for Labour issued Opinion No. 3938/33, of 27 July 2018, supplementing and partially reconsidering the previous approach relating to agreements concluded by negotiating groups, and indicating that these agreements constitute a collective instrument recognized explicitly by the Labour Code, which have to be registered by the labour inspectorate; (ii) various trade unions lodged an appeal for protection of their rights against this Opinion with the Court of Appeal of Santiago, which was upheld by the Court, although an appeal was then made to the Supreme Court, which set aside the ruling; and (iii) if a trade union considers that the establishment of a negotiating group or the benefits granted by the employer to a negotiating group imply any act of discrimination, action can be taken in the courts as an anti-union practice, and the corresponding administrative complaint can be made to the Directorate for Labour. The Committee also notes the observations of the CTC, CGTP and WCTU, which once again allege that the recognition of collective bargaining rights to these groups is contrary to the Convention, that this right was set out by Opinion No. 3938/33, referred to above, and that they consider that its purpose is to weaken trade unions and undermine collective bargaining. The Committee also observes that negotiating groups are not defined in the Labour Code.

The Committee is bound to recall once again that, without prejudice to the fact that Chilean legislation recognizes that each and every worker has the right to engage in collective bargaining, this is a collectively exercised right and the Convention, in the same way as other ILO Conventions ratified by Chile, recognizes in this respect the preponderant role of trade unions and workers' organizations over other methods of association. The concept of workers' organizations recognized in ILO Conventions is broad (covering a range of organizational forms), and the distinction therefore applies in relation to methods of association that do not fulfil the minimum guarantees and requirements to be considered organizations established with the objective and capacity to further and defend workers' rights independently and without interference. It is from this perspective that the Convention recognizes, in *Article 4*, as the parties to collective bargaining, employers or their organizations, on the one hand, and workers' organizations, on the other, in recognition that the latter offer guarantees of independence that other forms of association may lack. The Committee has therefore always considered that direct negotiation between the enterprise and groups of workers, without organizing in parallel with workers' organizations, where they exist, is not in accordance with the promotion of collective bargaining, as set out in *Article 4* of the Convention, and that groups of workers should only be able to negotiate collective agreements or contracts in the absence of workers' organizations. In addition, it has noted in practice that the negotiation of terms and conditions and work by groups which do not fulfil the guarantees to be considered workers' organizations can be used to discourage freedom of association and weaken workers' organizations that are able to defend independently the interests of workers through collective bargaining. ***The Committee requests the Government to adopt, through social dialogue, measures that effectively recognize the fundamental role and the prerogatives of representative organizations of workers and of their representatives, and establish mechanisms to prevent the involvement of a negotiating group in collective bargaining in the absence of a trade union from undermining the function of workers' organizations or weakening the exercise of freedom of association.***

*State enterprises.* With regard to the request to amend or repeal section 304 of the Labour Code (which does not allow collective bargaining in State enterprises dependent on the Ministry of National Defence, or which are connected to the Government through this Ministry, and in enterprises in which it is prohibited by special laws, or in public or private enterprises or institutions in which the State has financed 50 per cent or more of the budget in either of the last two calendar years, either directly or through duties or taxes), the Committee notes that the Government reiterates that this section has not been amended with respect to enterprises and institutions financed in part by the fiscal budget. In this regard, the Committee is bound to recall once again that the Convention is compatible with special methods of application for public service workers and reiterates that, in accordance with the terms of *Articles 5 and 6* of the Convention, only the armed forces, the police and public servants engaged in the administration of the State may be excluded from collective bargaining. ***The Committee urges the Government to take the necessary measures to guarantee, in law and practice, that the categories of workers referred to previously can participate in collective bargaining, and to report any developments in this regard.***

*Article 6. Scope of application of the Convention. Public employees not engaged in the administration of the State.* In its previous comment, the Committee noted that the reform of the Labour Code which entered into force in 2017 had not given effect to the request to amend section 1 (which provides that the Labour Code does not apply to officials of the National Congress or the judiciary, or to workers in state enterprises or institutions, or those to which the State contributes or in which it holds shares or is represented, on condition that such officials or workers are subject by law to special regulations). The Committee requested the Government to provide detailed information on the manner in which public servants and employees who are not engaged in the administration of the State (for example, employees of public enterprises and decentralized entities, public sector teachers and transport sector staff) enjoy the guarantees of the Convention. The Committee notes that the Government has not replied to the issue raised and reiterates the information provided in its previous report, indicating that the reform only covers the private sector and that the public employees concerned by this provision, together with public employees of the centralized and decentralized administration, are part of the public sector, in respect of whom the State complies with and applies the Labour Relations (Public Service) Convention, 1978 (No. 151). **Recalling that, pursuant to Article 6 of the Convention, only public servants engaged in the administration of the State are exempt from the application of the Convention, the Committee once again requests the Government to provide detailed information on the manner in which public servants and employees who are not engaged in the administration of the State (for example, employees of public enterprises and decentralized entities, public sector teachers and transport sector staff) enjoy the guarantees of the Convention. The Committee also once again requests the Government to provide, in its next report on Convention No. 151, clarifications regarding the application of the guarantees of that Convention to all workers in the public administration.**

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

## China

### Hong Kong Special Administrative Region

#### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (notification: 1997)***

The Committee notes the observations of the International Trade Union Confederation (ITUC) and the Hong Kong Confederation of Trade Unions (HKCTU) received on 1 September 2019, concerning the application of the Convention and denouncing intimidation and harassment of workers in the context of public protests, as well as limited protection of the right to assembly and the right to strike, accompanied by excessive penalties. The Committee notes the Government's reply thereto. The Committee further observes that the Government does not provide any information on the 2016 ITUC observations concerning the application of the Convention, including the alleged arrest of Mr Yu Chi Hang, organizing secretary of the Hong Kong Confederation of Trade Unions (HKCTU), after leading a demonstration to demand improvements in workers' rights; and the alleged dismissal of all workers (coach drivers) prior to an announced strike coupled with the hiring of replacement labour. **The Committee requests the Government to provide its comments on these ITUC allegations.**

*Article 2 of the Convention. Right of workers to establish organizations of their own choosing without previous authorization.* The Committee had previously noted the proposals to implement article 23 of the Basic Law which, among others, would allow for the proscription of any local organization which was subordinate to a mainland organization, the operation of which had been prohibited on the grounds of protecting the security of the State; and had considered that those proposals could impede the right of workers and employers to form and join the organizations of their own choosing and to organize their administration and activities free from interference by the public authorities. The Committee expressed the firm hope that the Government would ensure that any new legislation would take due account of the Committee's comments and be in line with the Convention. The Committee notes the Government's indication that while it has a constitutional responsibility to legislate for article 23 of the Basic Law in order to safeguard national security, it will carefully consider all relevant factors, act prudently and continue its efforts to create a favourable social environment for the legislative work. The Government states that it will listen to public views earnestly and explore ways to enable the society to respond positively to the constitutional requirement. **Continuing to express the firm hope that the Government will ensure that any new legislation will take due account of the Committee's comments and be in line with the Convention, the Committee requests the Government to provide information on any developments in relation to the legislative proposals implementing article 23 of the Basic Law, including on consultations held with the social partners in this regard.**

The Committee welcomes the statistics supplied by the Government according to which, as of 31 May 2019, the number of trade unions was 914, representing an increase of 13.1 per cent in the last ten years.

#### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (notification: 1997)***

The Committee notes the observations of the International Trade Union Confederation (ITUC) and the Hong Kong Confederation of Trade Unions (HKCTU) received on 1 September 2019 referring to matters addressed in the present comment and denouncing violations of the Convention in practice, including anti-union dismissals and threats of dismissals

in the context of public protests, as well as limited promotion of the right to collective bargaining. The Committee notes the Government's reply thereto. The Committee observes that the Government does not provide any information in relation to the 2016 observations from the ITUC and the HKCTU, alleging violations of the Convention in practice. ***The Committee requests the Government to provide a detailed reply to the 2016 ITUC and HKCTU observations.***

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comments, the Committee had noted the Government's reference to the drafting of an amendment that would empower the Labour Tribunal to make an order of reinstatement/re-engagement in cases of unreasonable and unlawful dismissal without the need to secure the employer's consent. The Committee had expressed its expectation that the Bill, which had been under examination for 17 years, would be adopted without any further delay so as to give legislative expression to the principle of adequate protection against acts of anti-union discrimination and would be effectively enforced in practice. The Committee notes with ***interest*** the Government's indication that, by virtue of the Employment (Amendment) (No. 2) Ordinance, 2018, which amends the Employment Ordinance (EO), the Labour Tribunal and the courts are now empowered, in case of an unreasonable or unlawful dismissal (among others, dismissal by reason of exercising the right to trade union membership or participation in trade union activities), to make a compulsory order for reinstatement or re-engagement without having to secure the agreement of the employer. The Committee observes, however, that, according to the ITUC and the HKCTU, the amended ordinance allows for discretion in ordering reinstatement and the penalty for the employer's failure to observe a reinstatement is not sufficiently dissuasive to ensure such compliance (three months of the worker's average salary and not exceeding 72,500 Hong Kong Dollars (HKD) (US\$9,300)). The Committee also notes the Government's statement that it accords high priority to investigating complaints on suspected anti-union discrimination but observes that, according to the ITUC and the HKCTU, only two prosecutions of anti-union discrimination resulted in reinstatement since 1974, as it is difficult to prove the employer's covert intent in criminal proceedings. ***In light of the above, the Committee requests the Government to provide information on the application in practice of the amended EO, in particular to inform about its impact on the number of reinstatement orders issued by the courts and effectively implemented by the employers. Bearing in mind the allegations made by the ITUC and the HKCTU with regard to anti-union dismissals and threats of dismissals in the context of public protests, the Committee requests the Government to take the necessary measures to investigate any allegations of anti-union discrimination and to impose sufficiently dissuasive sanctions to avoid the occurrence of such acts in the future. The Committee further requests the Government to provide updated statistics on the number and nature of complaints of anti-union discrimination filed to the competent authorities, their follow-up and outcome.***

*Article 4. Promotion of collective bargaining.* The Committee recalls that it had previously referred to the need to strengthen the collective bargaining framework in the light of the low levels of coverage of collective agreements, which were not binding on the employer, and the absence of an institutional framework for trade union recognition and collective bargaining. In its previous comment, the Committee requested the Government, in consultation with the social partners, to step up its efforts to take effective measures, including of a legislative nature, in order to encourage and promote free and voluntary collective bargaining in good faith between trade unions and employers and their organizations. The Committee notes the Government's indication that: (i) collective bargaining compelled by law is not conducive to voluntary negotiation and there is no consensus on introducing compulsory bargaining in the legislation; (ii) the Labour Department, making use of its conciliation services, encourages employers and employees to draw up agreements on the terms and conditions of employment, which has contributed to harmonious industrial relations; (iii) collective agreements have been reached in certain industries including printing, construction, public bus transport, air transport, food and beverage processing, pig-slaughtering and elevator maintenance; (iv) the Government has been taking numerous measures appropriate to local conditions, both at the enterprise and industry levels, to encourage and promote voluntary negotiation and effective communication between employers and employees or their respective organizations, including through the industry-based tripartite committees; and (v) all the above efforts help foster an environment conducive to voluntary bipartite negotiation between employers and employees or their respective organizations.

While taking due note of the information provided, including on the promotional measures and activities undertaken, the Committee observes the concerns raised by the ITUC and the HKCTU that there is still no legal framework to regulate the scope, protection and enforcement of the agreements and that less than one per cent of workers are covered by collective bargaining. The Committee recalls in this regard that collective bargaining is a fundamental right which members States have an obligation to respect, promote and to realize in good faith and that the overall aim of *Article 4* of the Convention is to promote good-faith collective bargaining between workers or their organizations on the one hand, and employers or their organizations, on the other hand, with a view to reaching an agreement on terms and conditions of employment. The Committee also emphasizes that it has not been requesting the Government to impose compulsory collective bargaining, as under the terms of *Article 4* of the Convention, collective bargaining must be free and voluntary but that it has been pointing to the need to strengthen the collective bargaining framework. The Committee also reiterates, as regards the tripartite committees established at the industry-level, that the principle of tripartism, which is particularly appropriate for the regulation of questions of a larger scope (drafting of legislation and formulating labour policies), should not replace the principle enshrined in the Convention of autonomy of workers' organizations and employers (or their organizations) in bipartite collective bargaining on conditions of employment. The Committee also recalls that, whatever the type of machinery used, its first objective should be to encourage by all possible means free and voluntary collective bargaining between the parties, allowing them the greatest possible autonomy, while establishing a legal framework and administrative structure to which they may have recourse, on a voluntary basis and by mutual agreement, to facilitate the conclusion of a

collective agreement under the best possible conditions (see the 2012 General Survey on the fundamental Conventions, paragraph 242). *Considering the above, the Committee requests the Government, in consultation with the social partners, to step up its efforts to take effective measures, including of a legislative nature, to strengthen the legislative framework for collective bargaining so as to encourage and promote free and voluntary collective bargaining in good faith between trade unions and employers and their organizations. The Committee requests the Government to provide statistics on the number of collective agreements concluded, the sectors to which they apply and the number of workers covered.*

*Article 6. Collective bargaining in the public sector.* In its previous comments, the Committee requested the Government to ensure that public servants not engaged in the administration of the State, including teachers and employees in public enterprises, enjoy the right to collective bargaining. The Committee *regrets* to observe that the Government simply reiterates that every civil servant, irrespective of grade or rank, is a part of the civil service and contributes to the administration of the Government, and that all civil servants are thus excluded from the application of *Article 6* of the Convention. It also observes the concerns expressed by the ITUC and the HKCTU that civil servants are excluded from the enforcement of the Convention without distinction of rank and job. While further noting the Government's explanation that there are sufficient avenues for staff representatives to participate in the process for determining the terms and conditions of employment, including through an elaborate three-tier staff consultation mechanism and independent bodies which provide impartial advice on matters of conditions of employment, the Committee reiterates that a distinction must be drawn between, on the one hand, public servants who by their functions are directly employed in the administration of the State (for example, in some countries, public servants in government ministries and other comparable bodies, and ancillary staff), who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the Government, by public enterprises or by autonomous public institutions, who should benefit from the guarantees provided for in the Convention. It recalls that the establishment of simple consultation procedures for public servants instead of real collective bargaining procedures is not sufficient. *The Committee therefore urges the Government to take the necessary measures, in consultation with the social partners, to ensure that public servants not engaged in the administration of the State, including teachers and employees in public enterprises, enjoy the right to collective bargaining. The Committee trusts that the Government will be able to report progress in this regard in the near future.*

## Macau Special Administrative Region

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (notification: 1999)***

The Committee notes the observations of representative organizations of workers communicated with the Government's report and collected through the Standing Committee for the Coordination of Social Affairs, whose members are appointed from the most representative workers' and employers' organizations (currently the Macao Chamber of Commerce and the Macao Federation of Trade Unions). These refer to the need to adopt specific laws on freedom of association. It further notes the observations of the Macao Civil Servants' Association received on 6 August 2019, also referring to the need to legislate on matters of freedom of association and collective bargaining, and the Government's general reply thereto. The Committee further notes the Government's additional reply to the 2014 observations of the International Trade Union Confederation (ITUC).

*Articles 2 and 3 of the Convention. Right to organize of all categories of workers. Right of organizations to organize their activities.* The Committee recalls that it had previously noted the Government's indication that freedom of association, procession and demonstration, as well as the right and freedom to form and join trade unions and to strike, are guaranteed to all Macao residents by section 27 of the Basic Law of the Macao Special Administrative Region, and that in line with section 2(1) of the Regulation on the Right of Association (Law No. 2/99) everyone can form associations freely and without obtaining authorization. In its previous comment, the Committee noted that the Labour Relations Law adopted in 2008 did not include a chapter on the right to organize and collective bargaining and that the draft Law on Fundamental Rights of Trade Unions, which would give effect to these rights, had been pending adoption since 2005. The Committee strongly encouraged the Government to intensify its efforts to achieve consensus on the draft Law and expected that it would explicitly grant the rights enshrined in the Convention to all categories of workers (with the only permissible exception of the police and the armed forces).

The Committee notes the Government's indication that the draft Law on Fundamental Rights of Trade Unions was submitted to the legislative council and vetoed for the tenth time. In April 2019, those who oppose the draft law considered that many substantive and procedural laws already exist to protect workers and that the social situation has changed since the first draft was submitted, as a result of which the draft law does not reflect the needs of the current society. While the Government does not oppose the enactment of the trade union law at an appropriate time, it must listen to the opinions of all members of society and the relevant stakeholders to respond to the societal situation and tailor the law and regulations accordingly. The Government indicates that since 2016, a research study has been ongoing on the essential social conditions for the discussion of the draft Law on Fundamental Rights of Trade Unions and it should be concluded in the second half of 2019. The Committee also notes that in their observations, the representative organizations of workers consider that the absence of a law on trade unions and collective bargaining constitutes a severe legislative loophole and they remain in favour of enacting a set of concrete and specific laws to truly guarantee and protect the right to form, join and represent trade

unions. *Bearing in mind the views expressed by workers' organizations and recalling that the draft Law on Fundamental Rights of Trade Unions has been pending adoption for more than a decade, the Committee urges the Government to intensify its efforts to achieve consensus on the draft Law and to bring about its adoption in the near future, and to inform the Committee of the results of the above-mentioned study. The Committee expects that this Law will explicitly grant the rights enshrined in the Convention to all categories of workers (with the only permissible exception of the police and the armed forces), including domestic workers, migrant workers, self-employed workers and those without an employment contract, part-time workers, seafarers and apprentices, so as to ensure that freedom of association, including the right to strike, can be effectively exercised. The Committee requests the Government to provide information on any developments in this regard.*

In the same vein, the Committee also previously requested the Government to provide information on developments regarding the adoption of legislative frameworks regulating rights of specific categories of workers, as provided for in section 3(3) of the Labour Relations Law. The Committee notes in this regard that: (i) the draft Part-Time Labour Relations Law was submitted to the Standing Committee in 2018 but due to the need for a more comprehensive discussion, the Government resubmitted the draft law again for further comments from workers' and employers' representatives; and (ii) the draft Seafarers' Labour Relations Law is still under discussion to ensure its compatibility with the relevant international Conventions. The Government reiterates that while these draft laws are specialized regulations to address the specific characteristics of labour relations in the above sectors, the basic regulations concerning these workers are contained in the Labour Relations Law and workers in all industries, including seafarers and part-time workers, are entitled to freedom of association, organization and the right to participate in trade unions. *Taking due note of the Government's explanation, the Committee requests the Government to continue to provide information on developments regarding the adoption of legislative frameworks regulating rights of specific categories of workers, including part-time workers and seafarers, and to indicate whether these instruments include any provisions on the promotion and protection of the rights granted in the Convention. The Committee expects that any legislative frameworks regulating rights of specific categories of workers will be in full conformity with the Convention.*

*Application of the Convention in practice.* The Committee notes the statistics provided by the Government on the number of trade unions (408 registered workers' organizations, out of which 49 involve civil servants as of April 2019), as well as the detailed information on dispute settlement of labour disputes involving more than ten workers. The Committee also takes note of the measures that the Government indicates having taken to protect workers' freedom of association and assembly and improve labour conditions, including: consultation of workers' and employers' organizations when drafting policies on issues of labour and social security; several legislative amendments initiated to strengthen the legal protection of labour rights and monitoring; setting up of consultation hotlines and monitoring employers' compliance with labour laws; and promotional activities and seminars conducted by the Labour Affairs Bureau. Finally, the Committee notes the Government's statement that in order to formalize the employment agency system, the Government proposed the Employment Agency Bill to the legislative council.

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (notification: 1999)**

The Committee notes the observations of representative organizations of workers communicated with the Government's report and collected through the Standing Committee for the Coordination of Social Affairs, whose members are appointed from the most representative workers' and employers' organizations (currently the Macao Chamber of Commerce and the Macao Federation of Trade Unions). These refer to the need to adopt specific laws on freedom of association and point to anti-union practices in some enterprises. The Committee further notes the observations of the Macao Civil Servants' Association received on 6 August 2019, also referring to the need to legislate on matters of freedom of association and collective bargaining, and the Government's general reply thereto. The Committee further notes the Government's additional reply to the 2014 observations of the International Trade Union Confederation (ITUC) but observes that the Government fails to address the concrete allegations of unfair dismissals of union members and teachers. *The Committee requests the Government to provide its comments on these specific allegations.*

*Legislative developments.* The Committee previously referred to its comments made under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in which it recalled that while the Labour Relations Law adopted in 2008 contained some provisions that prohibit anti-union discrimination and provided sanctions for such acts, it did not include a chapter on the right to organize and collective bargaining, and that the draft Law on Fundamental Rights of Trade Unions, which would give effect to these rights, had been pending adoption since 2005. *Taking due note of the information provided by the Government in this regard and referring to its comments made under Convention No. 87, the Committee strongly encourages the Government to intensify its efforts in order to achieve the adoption, in the near future, of a legislation that will explicitly grant the various rights enshrined in the Convention and address the Committee's pending comments. The Committee requests the Government to provide information on any developments in this regard.*

The Committee also previously requested the Government to provide information on any developments regarding the adoption of legislative frameworks regulating the rights of seafarers and part-time workers and expressed the expectation that any such instruments would, in full conformity with the Convention, allow these categories of workers to exercise their

right to organize and to bargain collectively. The Committee takes due note of the information provided by the Government and refers to its more detailed comments made under Convention No. 87.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* Having previously noted that fines imposed by section 85(1)(2) of the Labour Relations Law for acts of discrimination against workers due to their union membership or the exercise of their rights might not be sufficiently dissuasive, particularly for large enterprises (from 20,000 to 50,000 Macau patacas (MOP) equivalent to US\$2,500–6,200), the Committee requested the Government to take the necessary measures to strengthen the existing pecuniary sanctions applicable to acts of anti-union discrimination in order to ensure their sufficiently dissuasive character. It also requested the Government to provide clarification on the use, if any, of sanctions provided for in the Penal Code, to which the Government made reference. The Committee notes the Government's indication that: (i) heavy penalties are already imposed for illegal acts violating workers' rights and the Government will continue to carefully review and improve the laws and regulations in the field of labour; (ii) violations of the Labour Relations Law are divided into administrative violations and "minor violations", which are more serious, have a criminal nature and to which the Penal Code applies; (iii) in case an employer deters an employee from exercising his or her rights or subjects the employee to any adverse treatment for exercising such rights (section 10(1) of the Labour Relations Law) and the act constitutes a criminal offence, the Labour Affairs Bureau will actively follow-up, institute a punishment procedure and impose a fine; and (iv) upon refusal by the employer to pay the fine, judicial proceedings will be initiated, in which the court can impose a fine under the provisions of the Penal Code. While taking due note of the information provided, the Committee observes that there do not seem to have been any concrete measures taken to increase the penalties foreseen for acts of anti-union discrimination, which therefore, still appear to be insufficiently dissuasive, particularly for large enterprises. The Committee notes in this regard that representative organizations of workers also emphasize the need to increase the amount of penalties and fines for anti-union discrimination in order to enhance the deterrence of such acts. They further consider that there is evidence of anti-union practices in some enterprises in which enterprise regulations require employees who join trade unions and assume trade union functions to inform the management. ***In light of the above, the Committee requests the Government once again to take the necessary measures, in consultation with the social partners, to strengthen the existing pecuniary sanctions applicable to acts of anti-union discrimination in order to ensure their sufficiently dissuasive character. The Committee requests the Government to provide information on any progress in this regard.***

The Committee also previously noted the 2014 ITUC observations, that section 70 of the Labour Relations Law, which allows rescission of contract without just cause accompanied by compensation, was in practice used to punish union members when they take part in union activities or industrial actions, and requested the Government to take the necessary measures, including legislative, if necessary, to ensure that this provision is not used for anti-union purposes. The Committee notes that the Government states that between 2014 and May 2019, the Labour Affairs Bureau has not received any complaints of anti-union dismissals but does not elaborate on any measures taken to address the ITUC concerns. ***Recalling that anti-union acts may not, in practice, always result in the filing of complaints to the competent authorities, the Committee requests the Government once again to take the necessary measures, including of a legislative nature, to ensure that termination of employment contract under section 70 of the Labour Relations Law is not used for anti-union purposes.***

*Article 2. Adequate protection against acts of interference.* The Committee had previously noted that sections 10 and 85 of the Labour Relations Law did not explicitly prohibit all acts of interference as described in *Article 2* of the Convention, or guarantee adequate protection by means of dissuasive sanctions and rapid and effective procedures. In its previous comment, it therefore requested the Government to take the necessary measures to ensure that the relevant legislation includes express provisions to this effect. The Committee notes that the Government reiterates the procedure explained above relating to obstruction by the employer of the exercise of employees' rights and states that it will continue its efforts to work towards the goals set by the Convention. Recalling once again that the applicable legislation (sections 10 and 85 of the Labour Relations Law and section 4 of the Regulation on the Right of Association) do not explicitly prohibit all acts of interference as described in *Article 2* of the Convention, the Committee emphasizes the need for legislation to explicitly protect workers' and employers' organizations against any acts of interference by each other or each other's members, including, for instance, acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, and to make express provisions for rapid appeals procedures against such acts, coupled with effective and dissuasive sanctions. ***In light of these considerations, the Committee requests the Government once again to take the necessary measures to include in the relevant legislation provisions explicitly prohibiting acts of interference and providing for sufficiently dissuasive sanctions and rapid and effective procedures against such acts.***

The Committee also previously requested the Government to provide statistical information on the functioning, in practice, of the Labour Affairs Bureau and the Labour Tribunal, including the number of cases of anti-union discrimination and interference brought before them, the duration of the proceedings and their outcome. The Committee notes the Government's indication that between June 2016 and May 2019 one case was opened on the allegations that an employee had been suspended for participating in a procession but it was later found that it was due to poor performance, and that no decisions were found before the courts that would deal with cases of discrimination or interference. ***The Committee requests the Government to continue to provide statistical information on the functioning, in practice, of the Labour Affairs***

***Bureau and the Labour Tribunal with regard to allegations of anti-union discrimination and interference brought before them, the duration of the proceedings and their outcome.***

*Articles 1, 2 and 6. Protection of public servants not engaged in the administration of the State against acts of anti-union discrimination and interference.* The Committee previously observed that the General Provisions on the Personnel of the Public Administration in Macao did not contain any provisions against anti-union discrimination and interference and that the Government did not indicate any other specific provisions that would explicitly provide protection to public servants against acts of anti-union discrimination and interference. The Committee requested the Government to take the necessary measures to amend the legislation so that it explicitly prohibits acts of anti-union discrimination and interference and grants public servants not engaged in the administration of the State adequate protection against such acts. The Committee notes that the Government reiterates that protection of civil servants against discrimination or interference for participating in trade union activities is guaranteed but observes once again that it does not point to any specific legislative provisions to this effect. ***In these circumstances, recalling that the scope of the Convention covers public servants not engaged in the administration of the State, the Committee requests the Government once again to take the necessary measures, including of a legislative nature, to explicitly prohibit acts of anti-union discrimination and interference and grant public servants not engaged in the administration of the State adequate protection against such acts.***

*Articles 4 and 6. Absence in legislation of provisions on collective bargaining for the private sector and public servants not engaged in the administration of the State.* In its previous comments, the Committee requested the Government to take the necessary measures to ensure the full application of *Article 4* of the Convention both for the private sector and public servants not engaged in the administration of the State, whether through the adoption of the draft Law on Fundamental Rights of Trade Unions or any other legislation. The Committee notes the Government's statement that it always conducts discussions and consultations with the social partners, either through the tripartite consultation platform of the Standing Committee for the Coordination of Social Affairs in the private sector, which has become an essential platform to communicate, negotiate and reach consensus and helps construct stable and harmonious employer-worker relations, or through the permanent consultation mechanism established by the Civil Service Pay Review Council to formulate standards and procedures for pay adjustment in the civil service. The Government indicates that several laws and regulations on the conditions of work of civil servants are currently being revised and that through the different consultation channels, civil servants can express their opinions on relevant matters. ***Recalling that the Convention tends to essentially promote bipartite negotiations of terms and conditions of employment and that the establishment of simple consultation procedures instead of real collective bargaining procedures is not sufficient, the Committee requests the Government once again to take the necessary measures in the very near future to ensure the full application of Article 4 of the Convention both for the private sector and public servants not engaged in the administration of the State, whether through the adoption of the draft Law on Fundamental Rights of Trade Unions or any other legislation, and to provide information on any developments in this regard.***

*Collective bargaining in practice.* The Committee notes that the Government has not conducted any relevant statistical analysis on collective agreements reached. ***The Committee requests the Government once again 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.***

**Colombia*****Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1976)***

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, the joint observations of the Single Confederation of Workers of Colombia (CUT) and the Confederation of Workers of Colombia (CTC), received on 1 September 2019, the observations of the General Confederation of Labour (CGT), received on 5 September 2019, and the joint observations of the ITUC, the Trade Union Confederation of the Americas (TUCA-CSA), CUT and CTC, received on 1 September 2017. The Committee observes that these various observations referred to matters addressed by the Committee in the present observation and contain allegations of violations of the Convention in practice. The Committee notes the Government's comments in this respect. The Committee also notes the joint observations of the Colombian Association of Civil Aviators (ACDAC), the ITUC and the CTC, received on 22 March 2019, and the Government's reply thereto. The Committee further notes the observations of the International Transport Federation (ITF) and its affiliated organizations ACDAC, the Colombian Association of Flight Attendants (ACAV) and the Union of Air Transport Workers of Colombia (SINTRATAC) received on 4 September 2019, which concern, on the one hand, matters related to Case No. 3316 before the Committee on Freedom of Association and, on the other hand, issues addressed in this comment.

Finally, the Committee notes the joint observations of the International Organisation of Employers (IOE) and of the National Employers' Association of Colombia (ANDI), received on 30 August 2019, referring to matters addressed within the context of the present observation.

*Trade union rights and civil liberties.* The Committee recalls that for many years it has been examining, in the same way as the Committee on Freedom of Association, allegations of violence against trade unionists and the situation of

impunity in this regard. The Committee notes with *deep concern* that the ITUC, CUT, CTC and CGT allege the persistence of a very high number of murders and other acts of anti-union violence in the country. In this regard, the Committee notes that the ITUC: (i) denounces 194 acts of anti-union violence in 2018, with 82 per cent of the victims being trade union leaders; and (ii) denounces the murder of 34 trade union leaders and members in 2018, with information on the circumstances on each of these crimes.

The Committee further notes the indication by the CUT and CTC that: (i) 907 acts of anti-union violence were recorded between 2016 and August 2019, including 101 murders; (ii) the number of murders in 2017 (31) and 2018 (37) has increased in relation to 2016 (20); (iii) unions representing rural workers, education and mining and energy workers are those most affected by anti-union violence; (iv) in the same way as other forms of citizens' organizations, unions are considered by criminal groups to be an obstacle to the unlawful appropriation of public income and the exploitation of land left unoccupied by the peace process; (v) the stigmatization of trade union activities, particularly in the education sector, the support by unions for the peace process and the anti-union policy in the private sector are other factors underlying the persistence of anti-union violence; (vi) although anti-union violence has decreased in comparison with previous decades, it is increasingly focussed on trade union leaders with a view to the fragmentation of the organizations for which they are responsible; (vii) the reduction in the provision of protection measures in recent years is a source of concern, and the murdered members of the trade union movement did not benefit from such protection measures; (viii) a collective approach to the granting of protection measures would be appropriate to prevent union members depending solely on individual complaints, which are not always made; and (ix) a collective approach to the granting of protection measures would be appropriate to prevent them depending solely on individual complaints, which are not always made; and (ix) according to the data provided by the Office of the Prosecutor General, of the 88 cases of murders of members of the trade union movement known to that Office between 2015 and May 2019, there were only 14 convictions. The Committee further notes the indications by the CGT that: (i) there has been a disproportionate increase in the murder of social leaders in Colombia over the past three years; (ii) the protection measures provided for members of the trade union movement continue to be inadequate and have tended to become less effective in recent years; (iii) although the capacity of the Office of the Prosecutor General has been strengthened in the past five years to investigate crimes against trade unionists, there has been little progress, with 87 per cent of the murders and over 99 per cent of the threats to members of the trade union movement still awaiting clarification.

The Committee notes the emphasis placed by the ANDI on the important efforts made by public institutions, both for the protection of members of the trade union movement and to combat impunity, and the substantive results obtained in this regard.

The Committee further notes the detailed information provided by the Government concerning the phenomenon of anti-union violence and the action taken by public institutions in this regard. The Government indicates that, despite a reduction in the overall number of murders by 36 per cent between 2014 and 2018, Colombia continues to be confronted by significant security challenges, particularly in view of the complexity and evolution of criminal groups linked to illegal economic activities. The Government further indicates that the threat of these groups is particularly intensive towards persons and communities that are building social capital, who include social leaders and defenders of rights. The Committee notes the Government's indication that, under the overall coverage of the National Development Plan 2018–22, there exists a broad and intense State policy to take up these challenges, and particularly to protect members of the trade union movement and to combat impunity.

With regard to the protection of members of the trade union movement who are at risk, the Committee notes the Government's indication that: (i) Decree No. 2137 of 2018 established the Intersectoral Commission for the development of the Appropriate Action Plan (PAO) for the prevention and individual and collective protection of the rights to life, freedom, safety and security of human rights defenders, social and communal leaders and journalists; (ii) the "PAO Commission" is responsible for guiding and coordinating the various protection programmes and the resources of the various Government bodies involved in the prevention and protection of the rights and safety of human rights defenders, social and communal leaders and journalists; (iii) the General Command of the Armed Forces activated the National Immediate Response System for Progressive Stabilization (SIRIE), with a view to monitoring factors of instability in regional security and adopting, among others, protection measures for trade union leaders, social leaders and human rights defenders; (iv) the national police created an elite body with a multidimensional approach to disband the criminal organizations threatening human rights defenders and social and political movements; (v) during the course of 2018, a total of 399 risk assessments were undertaken for members of the trade union movement, and 232 cases of extraordinary risk and 163 cases of ordinary risk were identified; (vi) the National Protection Unit (UNP) is currently providing protection for 357 trade union leaders and members and 13,411,370,181 Colombian pesos (COP) (approximately US\$46 million) have been allocated for protection in 2019; and (vii) the UNP is undertaking studies of the collective risk level for the unions affiliated to FECODE and SINTRAINAGRO.

With reference to the action taken to combat impunity, the Committee notes the Government's indication that: (i) the investigation of crimes against trade unionists was included in the Strategic Plan of the Office of the Public Prosecutor 2016–20; (ii) in August 2016, the Elite Committee to promote action and follow-up crimes against trade unionists, under the direct leadership of the Vice-Prosecutor, became operational; (iii) the Inter-Institutional Human Rights Commission, which includes the participation of the trade union confederations, the ANDI and all the relevant state institutions, continues to provide the opportunity for an exchange of information and views on action to combat impunity in relation to anti-union violence; (iv) since 2001, there

have been 800 convictions for the murder of members of the trade union movement; (v) during the period between 2011 and June 2019, a total of 205 murders of trade unionists were referred to the Office of the Public Prosecutor, with progress being made in the investigations in 44.39 per cent of the cases (including cases in which a presumed guilty party was identified and an arrest warrant ordered, as well as those in which a conviction was obtained) and 151 people were imprisoned for these murders; (vi) the rate of clarification of the cases is higher than the average for general murder cases (28.4 per cent); and (vii) between 1 January 2018 and September 2019, a total of 28 investigations were opened into murders of members of the trade union movement, with a resolution rate of 48 per cent, and convictions have been obtained in three cases.

The Committee also notes the information provided by the Government on the investigations into 23 of the 34 murders committed in 2018, as denounced by the ITUC, with an indication that in the cases of seven of these murders arrests have been made, and that there are suspects in the other cases. ***Recognizing the gravity of the offences described above, the Committee requests the Government to continue providing information on the progress made in the corresponding investigations and to provide information on the action taken by the public authorities in relation to all of the 34 murders reported by the ITUC for 2018.***

The Committee once again acknowledges the significant efforts made by the public authorities, both with regard to the protection of members of the trade union movement who are at risk and in the investigation and punishment of acts of anti-union violence. The Committee particularly welcomes in this respect the active commitment of the various relevant State bodies, the initiatives taken to improve the effectiveness of State action through inter-institutional coordination and the consultations held with the social partners in the context of the Inter-Institutional Human Rights Commission. The Committee takes due note of the 800 convictions in cases of murders of members of the trade union movement since 2001.

Nevertheless, the Committee expresses ***deep concern*** at the persistence of many acts of anti-union violence in the country and, in a context of increasing numbers of attacks on social leaders in general, at the resurgence of murders of members of the trade union movement in 2017 and 2018 and the greater concentration of attacks on trade union leaders reported by the unions. While being aware of the complexity of the challenges faced by the agencies responsible for criminal investigation, the Committee notes the absence of data on the number of convictions of the instigators of acts of anti-union violence. The Committee emphasizes in this regard the essential importance of the identification and the conviction of the instigators of such crimes in order to break the cycle of anti-union violence. ***In view of the magnitude of the challenges described, and acknowledging the significant action taken by the public authorities, the Committee urges the Government to continue strengthening its efforts to provide adequate protection to all trade union leaders and members who are at risk, and to their organizations, and to ensure that all of the acts of anti-union violence, including murders and other acts, reported in the country are investigated and that the instigators and perpetrators are convicted. While referring to the recommendations made by the Committee on Freedom of Association in its recent examination of Case No. 2761 (389th Report of the Committee on Freedom of Association, June 2019), and the follow-up to Case No. 1787 (383rd Report, October 2017), the Committee hopes that all the necessary further measures will be taken and that the necessary resources will be allocated to significantly improve the effectiveness of the investigations and criminal proceedings undertaken for the identification and punishment of the instigators of acts of anti-union violence. The Committee requests the Government to provide detailed information on this subject.***

***Collective compensation measures for the trade union movement.*** In its previous comment, the Committee requested the Government to provide information on the implementation of the collective compensation measures envisaged for the trade union movement in view of the violence committed against it. The Committee notes with ***interest*** that, under the terms of Decree No. 624 of 2016, in the presence of the President of the Republic, the Standing Dialogue Forum with the trade union confederations CUT, CTC, CGT and the Colombian Federation of Teachers (FECODE) for the collective compensation of the trade union movement was established on 23 October 2019 and that, on 30 October 2019, the Comprehensive Care and Compensation Unit for Victims started operating within the context of the Forum. ***The Committee requests the Government to continue providing information on the work of the Forum and on the implementation in practice of collective compensation measures for the trade union movement in view of the violence committed against it.***

***Section 200 of the Penal Code.*** The Committee notes the information provided by the Government on the application of section 200 of the Penal Code, which establishes penal sanctions for a series of acts that are contrary to freedom of association and collective bargaining. The Committee notes the Government's indication that: (i) Act No. 1826, of 12 January 2017, establishes a special expedited criminal procedure which also covers the types of crimes set out in section 200 of the Penal Code; (ii) as a result of the joint work plan developed since August 2016 by the Office of the Public Prosecutor and the Ministry of Labour, the examination has been concluded of 86 per cent of the 2,530 cases of the alleged violation of section 200, with only 14 per cent of these cases still under investigation; and (iii) 143 cases (7 per cent of the total) have been subject to conciliation procedures, 81 of them since August 2016.

The Committee however notes the indication by the CUT, CTC and CGT that there is complete impunity in this regard since, despite over 2,500 complaints being registered, violations of section 200 of the Penal Code have not resulted in any convictions. The Committee notes that, in its reply to these observations, the Government indicates that 10 cases are currently before the courts, which is a historical development in this type of case. While taking due note of the joint work plan of the Office of the Public Prosecutor and the Ministry of Labour, and welcoming the increase in the number of cases resolved through conciliation, the Committee considers that the absence of convictions for violations of freedom of association, despite the high number of complaints made since 2011, requires a review by the authorities concerned. ***The***

***Committee requests the Government to engage, together with the Office of the Public Prosecutor and the social partners, in an assessment of the effectiveness of section 200 of the Penal Code and to report the outcome and any action taken as a result.***

*Articles 2 and 10 of the Convention. Trade union contracts.* In its previous comments, the Committee requested the Government to provide its comments in relation to the allegations made by the CUT and CTC respecting the impact of trade union contracts on the application of the Convention. Trade union contracts, as envisaged in Colombian legislation, are contracts in which one or more unions undertake to provide services or perform work through their members for one or more enterprises or employers' organizations. The Committee notes that, since its most recent comment, the Committee on Freedom of Association has examined a complaint made by the CUT, in which the trade union confederation alleges that trade union contracts undermine the purpose and independence of trade unions, the right of workers to organize and free and voluntary collective bargaining (Case No. 3137, 387th Report, October 2018).

The Committee notes the Government's indication that trade union contracts are a legal concept recognized by the legislation for the purpose of enabling trade unions to participate in the management of enterprises, the promotion of collective work and employment generation, and that the high courts of the country have examined the concept in detail, confirming its validity, and that there are successful cases of trade union contracts that have permitted the recovery of enterprises which were on the point of closure. The Committee notes that the Government indicates more specifically that: (i) the legislation (in particular the Substantive Labour Code and Decree No. 036 of 2016) establishes a series of requirements to prevent the undue use of this type of contract, and emphasizes in particular the requirement for a trade union covered by a trade union contract to have been established for at least six months before the conclusion of the contract, and the requirement that the union already have affiliated workers in the company with which the contract is to be signed; (ii) the trade union contract has to be approved by the general assembly of the union, which also has to adopt the rules determining the conditions for the performance of the work envisaged in the contract and the corresponding benefits for the workers; (iii) the union is responsible for compliance with the requirements arising directly out of the contract, including those specifying the benefits for members who perform the agreed work; (iv) according to the ruling of the Constitutional Court, there is no employer-worker relationship between the union and its members who perform the work covered by the trade union contract, which would seriously prejudice the right to organize; (v) Ministerial Decision No. 2021 was adopted on 9 May 2018 to control the undue use of trade union contracts used as an unlawful employment mediation mechanism; (vi) as a result of the significant controls undertaken by the labour inspection services and, in particular, by the Special Investigations Unit of the Ministry of Labour, the number of trade union contracts registered is falling significantly, with almost all of the trade union contracts registered between 2014 and 2018 being in the health sector (98.2 per cent in the private sector and 99.55 per cent in the public sector). The Committee also notes that the ANDI expresses a similar position to the Government, and emphasizes in particular that it is necessary to respect the autonomy of trade unions to conclude trade union contracts, as has been done for example, by the CGT trade union confederation.

The Committee notes that the CUT and CTC, in addition to reiterating their previous observations that trade union contracts are an instrument to perpetuate and extend unlawful employment mediation and undermine trade union activity through the creation of false trade unions, indicate that: (i) the concept of the trade union contract allows real dependent employment relationships to be hidden; (ii) the workers involved with trade union contracts are not in practice able to join a union other than the one for which they provide their services and cannot engage in collective bargaining as they do not have an employment contract; (iii) despite the Government's indications, labour inspection activities are not focussed on trade union contracts; (iv) no penalties are known to have been imposed for the abuse of trade union contracts; (v) the phenomenon is continuing to grow in the health sector, where trade union contracts are permitting the maintenance, through false trade unions, of unlawful employment mediation, which was previously undertaken by associated work cooperatives; and (vi) the elimination of trade union contracts is the necessary solution to bring an end to the harmful effects described above.

The Committee notes the indication by the CGT in this regard that: (i) although trade union contracts may be a valid precept, their management is complex and requires strong unions; and (ii) in practice, a substantial number of associated work cooperatives have been converted into false unions to conclude trade union contracts and continue engaging in illegal employment mediation, especially in the health sector. In this respect, the Committee notes that, in its comments on the observations of the workers' organizations, the Government states that: (i) according to the database of the Ministry of Labour's trade union archive group, 15 of the 17 trade union organizations in the health sector considered by the CGT to be false unions were registered with the Ministry of Labour between June and August 2011 and have a statute in force, while two others are not registered in the database; and (ii) according to the jurisprudence of the Constitutional Court, the Ministry of Labour is not competent to control the legality of trade union statutes, and therefore the statutes of the mentioned trade union organizations will be considered valid until there is a court decision to the contrary.

The Committee observes that the elements described above show that trade union contracts are a very specific precept distinguished by the so-called union security clauses, as the union does not confine itself to ensuring that all the workers engaged in an enterprise are members, but it also takes direct responsibility, through its members, for a productive activity on behalf of an enterprise. The Committee notes that, in this context, the union is responsible for organizing work by its members and for providing them with the benefits corresponding to the work performed. In this regard, the Committee is of

the view that the exercise by a workers' organization of management and decision-making powers over the employment of its members is likely to generate a conflict of interest with its function of defending their professional interests.

From a practical perspective, the Committee notes that both the Government and the three trade union confederations agree that more than 98 per cent of trade union contracts are concentrated in the health sector. The Committee observes with **concern** that the trade union confederations consider that associated work cooperatives, which previously engaged in unlawful employment mediation activity in such sector, have taken on the form of false unions so as to be able to continue such activities by means of trade union contracts. **On the basis of the above, while noting that, in its recommendations made within the framework of Case No. 3137, the Committee on Freedom of Association requested further information on the operation of trade union contracts, the Committee, emphasizes that the attribution to a workers' union of the power of management and decision-making concerning the employment of its members is likely to generate a conflict of interest and may endanger its capacity to fulfil the specific functions of trade unions of supporting and defending independently the claims of their members in relation to employment and terms and conditions of work. The Committee requests the Government to: (i) conduct a detailed assessment of the use of trade union contracts, in particular in the health sector; and (ii) after sharing the results of this assessment with the social partners, take the necessary measures, including legislative measures where necessary, to ensure that the precept of trade union contracts does not undermine the trade union rights of workers and is not used for purposes that are incompatible with Article 10 of the Convention. The Committee requests the Government to provide all the necessary information in this regard.**

**Article 4. Judicial cancellation of trade union registration.** The Committee notes the observations of the CUT and CTC relating to section 380(2) of the Substantive Labour Code, which establishes an expedited judicial procedure for the cancellation of the registration of trade unions. With reference to nine specific cases, the trade union confederations allege in this regard that: (i) this brief and summary procedure only offers minimal guarantees for the union and its members; and (ii) it would appear that the procedure is being used more frequently by certain enterprises to undermine and weaken the trade union movement, for which reason it should be repealed. The Committee notes the Government's indication in its reply to these observations that the mechanism of the judicial cancellation of trade union registration is intended to protect the freedom of work. **Recalling that the cancellation of trade union registration constitutes an extreme form of interference by the authorities in the activities of organizations, and that it is important for such measures to be accompanied by all the necessary guarantees that can only be ensured by normal judicial procedures, the Committee requests the Government to provide its comments on the allegations made by the trade union organizations that the expedited procedures set out in section 380 of the Labour Code does not provide adequate procedural safeguards.**

**Articles 3 and 6. Right of workers' organizations to organize their activities and to formulate their programmes. Legislative issues.** The Committee recalls that for many years it has been referring to the need to adopt measures to amend the legislation in relation to: (i) the prohibition of strikes by federations and confederations (section 417(i) of the Labour Code) and in a very broad range of services that are not necessarily essential in the strict sense of the term (section 430(b), (d), (f) and (h); section 450(1)(a) of the Labour Code; Taxation Act 633/00 and Decrees Nos 414 and 437 of 1952, 1543 of 1955, 1593 of 1959, 1167 of 1963, and 57 and 534 of 1967); and (ii) the possibility to dismiss workers who have intervened or participated in an unlawful strike (section 450(2) of the Labour Code), including in cases in which the unlawful nature of the strike is a result of requirements that are contrary to the provisions of the Convention. The Committee also recalls that in its previous comment it noted with interest ruling C-796 of 2014 of the Constitutional Court, which urged the legislative authorities to regulate within a period of two years the exercise of the right to strike in the oil sector, with the need to identify the circumstances in which the interruption of work in this sector results in danger to the life, personal safety or health of the whole or part of the population, and the circumstances in which this is not the case. The Committee requested the Government to provide information on the measures taken to give effect to this ruling.

With reference to section 417 of the Labour Code, which prohibits federations and confederations from calling strikes, the Committee notes that the Government and the ANDI reiterate that the Constitutional Court has ruled on this provision and found that the functions of trade unions include the calling of strikes, while federations and confederations discharge the functions of providing advisory services to their member organizations. Further noting the persistent criticisms made by national and international trade union confederations concerning the prohibitions set out in section 417 of the Labour Code, the Committee recalls once again that, under the terms of *Article 6* of the Convention, the guarantees of *Articles 2, 3 and 4* apply fully to federations and confederations, which should therefore be able to determine their programmes in full freedom. The Committee also emphasizes that, in accordance with the principle of trade union independence as set out in *Article 3* of the Convention, it is not for the State to determine the respective roles of first-level unions and of the federations and confederations to which they are affiliated. **In light of the above, and on the basis of Articles 3 and 6 of the Convention, the Committee once again requests the Government to take the necessary measures in the near future to eliminate the prohibition of the right to strike of federations and confederations as set out in section 417 of the Labour Code. The Committee requests the Government to provide information on any developments in this regard.**

With regard to the prohibition of the right to strike in a very broad range of services that are not necessarily essential in the strict sense of the term and which include, among others, transport services and the oil sector, the Committee notes the Government's indication concerning the submission on 20 July 2018 of Bill No. 10 of 2018 to the House of Representatives. The Government indicates that the objective of the Bill is to amend section 430 of the Labour Code with a

view to limiting the restrictions on the exercise of the right to strike in certain sectors, including the oil sector, on condition that a minimum service can be guaranteed.

The Committee notes that the ANDI, after expressing the view that the right to strike is not covered by the Convention, indicates that Colombian legislation on strikes in essential services is fully satisfactory.

The Committee however notes that the national trade union confederations indicate that: (i) the Government has not taken any initiative to give effect to the Committee's comments in relation to strikes in essential services and, at the initiative of the Government and the employers, Bill No. 10 of 2018 was removed from the legislative process without any official debate; (ii) the CUT and CTC submitted a new Bill (No. 071 of 2019) to bring the regulations respecting the right to strike into compliance with ILO Conventions; (iii) in 60 per cent of cases, the few strikes called by workers and their organizations are found to be unlawful by the courts with consequences that are contrary to the provisions of ILO Conventions (dismissals, dissolution of the union, the criminal or financial responsibility of trade union leaders), as illustrated by the cases of the various strikes called in private sector enterprises. In this regard, the Committee notes that the ITUC and the national trade union confederations particularly denounce the fact that, by a ruling of 29 November 2017 of the Labour Chamber of the Supreme Court, a strike by pilots in an airline was found to be unlawful, resulting in the dismissal of 110 pilots and an application for the dissolution of the ACDAC union, and that these matters are covered by Case No. 3316 of the Committee on Freedom of Association.

With regard to the ruling by the Labour Chamber of the Supreme Court, the Committee notes that the Chamber "attaches cardinal importance to the guidance provided by the ILO supervisory bodies that there should not be an absolute prohibition of the right to strike in air transport" and ... "reminds the Congress of the Republic of the need to update the legislation respecting the right to strike in essential services". In this regard, the Committee recalls that it considers that: (i) essential services in which the right to strike may be restricted or prohibited are only those the interruption of which would endanger the life, personal safety or health of the whole or part of the population; and (ii) although the concept of essential services is not absolute, the Committee has considered that sectors such as oil and public transport do not constitute essential services in the strict sense of the term, but are public services of overriding importance in which the maintenance of a minimum service may be required. *Noting that, on the one hand, there has been no progress in the legislative reforms requested by the Committee in relation to strikes in essential services, but that, on the other hand, both the Constitutional Court, in relation to the oil sector, and the Supreme Court, with regard to the various services defined as essential in the legislation, are calling for a revision of the legislation to better limit the restrictions imposed on the exercise of the right to strike, the Committee firmly expects that the Government will take the necessary measures to revise the legislative provisions indicated previously in the near future as indicated in its comments. The Committee requests the Government to provide information on developments in this regard and recalls that it may have recourse to the technical assistance of the Office.*

Finally, the Committee notes the Government's indication that, in the meeting held on 1 August 2019, it was decided to focus the work of the international affairs subcommittee of the Standing Committee for Dialogue on Wage and Labour Policies on examining the comments made by the Committee, including those on the present Convention. *The Committee hopes that the work of the subcommittee will facilitate the adoption of the various measures requested by the Committee to give full effect to the Convention. The Committee recalls that the Government may request 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 2020.]*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1976)**

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, the joint observations of the Single Confederation of Workers of Colombia (CUT) and the Confederation of Workers of Colombia (CTC), received on 1 September 2019, the observations of the General Confederation of Labour (CGT), received on 5 September 2019, and the joint observations of the ITUC, the Trade Union Confederation of the Americas, CUT and CTC, received on 1 September 2017. The Committee notes that these various observations relate to matters examined by the Committee in the present observation, as well as allegations of violations of the Convention in practice, and in particular allegations of anti-union dismissals in the private sector. The Committee notes the replies of the Government to these observations.

The Committee also takes note of the joint observations of the Colombian Association of Civil Aviators (ACDAC), the ITUC and the CTC, received on 22 March 2019 and the Government's reply thereto. The Committee also takes note of the observations of the International Transport Federation (ITF) and its affiliated organizations: ACDAC, the Colombian Association of Flight Attendants (ACAV) and the Union of Air Transport Workers of Colombia (SINTRATAC) received on 4 September 2019, which concern, on the one hand, facts related to Case No. 3316 before the Committee on Freedom of Association and, on the other hand, issues addressed in this comment.

The Committee finally notes the observations of the International Organisation of Employers (IOE) and the National Employers' Association of Colombia (ANDI), received on 30 August 2019, relating to matters examined within the context of the present observation.

*Article 1 of the Convention. Adequate protection against anti-union discrimination.* In its previous comments, the Committee noted the allegations by the CUT, CTC and CGT concerning the absence of mechanisms to provide effective protection against anti-union discrimination, and particularly: (i) the slowness and ineffectiveness of the examination by the Ministry of Labour of administrative labour disputes; (ii) the absence, with the exception of the procedure for the lifting of trade union protection, applicable solely to trade union leaders, of any expeditious judicial means of protection against acts of anti-union discrimination and interference; and (iii) the lack of protection from the Office of the Public Prosecutor in relation to the application of section 200 of the Penal Code, which criminalizes a series of anti-union acts. In view of the above, the Committee invited the Government, in consultation with the social partners, to launch a comprehensive examination of the means of protection against anti-union discrimination with a view to the adoption of the necessary measures to ensure adequate protection in this regard.

In this regard, the Committee notes that, in their most recent observations, the national trade union confederations reiterate their previous allegations and that the CUT and CTC specifically allege that: (i) the time taken by the labour administration to examine administrative labour disputes is excessively long, and in certain cases over 1,400 days have passed before the administration takes action; (ii) such long delays can be especially harmful for the protection of trade union rights since, under the terms of section 52 of the Code of Administrative Procedure and Administrative Disputes, the powers of the authorities to impose penalties expires after three years; and (iii) the recently adopted National Development Plan contains provisions that are likely to weaken even further the effectiveness of action by the labour inspection services.

The Committee notes the information provided by the Government on the institutional initiatives adopted to combat anti-union violence and on the application of section 200 of the Penal Code, which are examined within the context of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee also notes that the Government adds in its comments to the observations of workers' organizations that: (i) in order to improve the procedures and time frames for administrative investigations by labour inspectors, technical inspection tools were designed to promote the standardization of investigation and sanctioning procedures; and (ii) the recently adopted provisions modifying the administrative sanctioning procedure in labour matters and that are criticized by the trade union confederations are intended to decongest administrative labour actions by suspending the administrative procedure when those investigated undertake to implement the required corrective measures within a reasonable time. The Committee notes that the Government provides limited information concerning the alleged ineffectiveness of interventions by the labour administration in response to complaints of anti-union discrimination, that it does not provide comments on the role of the labour courts in this respect, and that it does not refer to the conduct of a comprehensive examination of the existing means of protection against anti-union discrimination. ***Recalling the fundamental importance of protection against anti-union discrimination for the effective exercise of freedom of association, the Committee urges the Government, in consultation with the social partners, to launch in the near future a comprehensive examination of the means of protection against anti-union discrimination with a view to the adoption of the necessary measures to ensure adequate protection in this regard. The Committee trusts that the Government will report any developments in this regard in its next report.***

*Articles 2 and 4. Collective accords with non-unionized workers.* The Committee recalls that it has been requesting the Government to take measures since 2003 to ensure that collective agreements with non-unionized workers (collective accords) can only be concluded in the absence of trade union organizations. The Committee notes that the Government indicates once again that, in accordance with the legislation and the case law of the Constitutional Court: (i) both collective accords (concluded with non-unionized workers) and collective agreements (concluded with trade unions) are instruments of collective bargaining, on the understanding that the recognition of the right to collective bargaining should not exclude non-unionized workers; (ii) employers are free to conclude collective accords with non-unionized workers, except where there is a union representing at least one-third of the personnel; and (iii) the terms and conditions negotiated in collective accords and agreements have to be equal to prevent any anti-union discrimination and any breach of the principle of equality. The Committee notes that the Government adds that: (i) there are 639 collective accords in force in the country in 2019; (ii) the number of collective accords concluded per year has been reduced by 53 per cent between 2015 (372 accords created) and 2018 (198); (iii) 115 collective accords were deposited from January to September 2019; (iv) Resolution 3783 of 29 September 2017 of the Ministry of Labour granted functions to the Special Investigation Unit of the Ministry of Labour to investigate the misuse of collective accords; and (v) the Special Investigation Unit has undertaken 27 investigations into the improper use of collective accords, with 22 cases at the stage of preliminary investigation, while charges have been brought in three cases, in one of which the charges were upheld and in another a conviction was handed down. The Committee also notes the agreement of the ANDI with the Government's indication and its view that workers must be free to choose the form of association that they wish to have for the purposes of negotiating collectively, and its emphasis that collective accords cannot be used to elude trade union membership.

The Committee also notes the indication by the CGT that: (i) although collective accords are governed by the same provisions of the Substantive Labour Code as collective agreements in terms of the collective bargaining process, in most cases there is no such bargaining, as the accord is drawn up directly by the enterprise or its trusted personnel; (ii) collective accords are usually promoted to prevent the independent organization of workers in a union and their conclusion usually

has the effect of drastically reducing the number of unionized workers; and (iii) despite the case law of the Constitutional Court in this regard, the labour administration and the Office of the Public Prosecutor fail to investigate complaints of anti-union practices in which collective accords are known as “voluntary benefit plans”, an assertion denied by the Government in its comments to the observations of the trade union confederations. Finally, the Committee notes that the CUT and CTC also indicate that 68 administrative complaints were lodged for the improper use of collective accords between 2014 and 2017, of which 35 have been shelved, 24 are still under investigation, and sanctions have been imposed in only nine cases.

Noting that there has been no progress in giving effect to its comments, the Committee is bound to recall once again that in *Article 4* the Convention recognizes, as the parties to collective bargaining, employers or their organizations, on the one hand, and workers’ organizations, on the other, in recognition that the latter offer guarantees of independence that may be absent in other forms of association. The Committee has therefore always considered that direct bargaining between the enterprise and unorganized groups of workers, in avoidance of workers’ organizations, where they exist, is not in accordance with the promotion of collective bargaining, as envisaged in *Article 4* of the Convention. Moreover, based on the situation in various countries, the Committee has observed that in practice the negotiation of terms and conditions of employment and work by groups that do not offer sufficient guarantees to be considered workers’ organizations can be used to undermine the exercise of freedom of association and weaken the existence of workers’ organizations with the capacity to defend the interests of workers independently through collective bargaining. ***In light of the above, the Committee once again requests the Government to take the necessary measures to ensure that the conclusion of collective accords with non-unionized workers (pactos colectivos) can only be possible in the absence of trade union organizations. The Committee requests the Government to report any developments in this regard.***

*Article 4. Personal scope of collective bargaining. Apprentices.* In its previous comments, the Committee requested the Government to take the necessary measures to ensure that the remuneration of apprentices is not excluded by law from the scope of collective bargaining. The Committee notes the Government’s indication that: (i) Act No. 789 of 2002, which establishes the figure of the apprenticeship contract, clearly states that apprentices are students and not workers; (ii) therefore, an apprenticeship contract is not a contract of employment, but is a special contract under labour legislation subject to its own rules, and not the provisions of the substantive Labour Code; and (iii) in ruling C-038 of 2004, the Constitutional Court found that apprentices are not workers in the strict sense and the exclusion of their remuneration from the scope of collective bargaining is a proportional restriction to the requirement imposed by law for enterprises to recruit a certain number of apprentices. ***Observing that, according to the ruling referred to above, apprentices are able to negotiate their remuneration on an individual basis, and recalling once again that the Convention does not exclude apprentices from its scope of application and that the parties to collective bargaining should therefore be able to decide to include the subject of their remuneration in their collective agreements, the Committee once again requests the Government to take the necessary measures to ensure that the remuneration of apprentices is not excluded by law from the scope of collective bargaining.***

*Subjects covered by collective bargaining. Exclusion of pensions.* The Committee recalls that, in the same way as the Committee on Freedom of Association in Case No. 2434, it has had the occasion to comment on several occasions on the impact of the reform of Article 48 of the Constitution of Colombia by Legislative Act No. 01 of 2005 on the application of the present Convention, as well as on the Collective Bargaining Convention, 1981 (No. 154). In its previous comment, recalling that the establishment by law of a general compulsory pensions scheme is compatible with collective bargaining by means of a complementary system, the Committee requested the Government to take the necessary measures so that the parties to collective bargaining, in both the private and the public sectors, are not prohibited from improving pensions through supplementary benefits.

The Committee notes the Government’s indication in this regard that Legislative Act No. 1 of 2005 prohibits, from the entry into force of the Legislative Act, the establishment in accords, collective labour agreements, awards or any legal acts of pension conditions that differ from those set out in the laws governing the General Pensions System, although this prohibition does not prevent the parties to collective bargaining from being able, in both the private and the public sectors, to improve pensions through supplementary benefits based on voluntary savings, which do not give rise to different pension conditions from those set out by the General System, but increase the capital necessary to obtain a better pension through individual efforts. ***The Committee takes due note of these indications and requests the Government to provide specific examples of collective agreements which provide for supplementary pension benefits.***

*Promotion of collective bargaining in the public sector.* The Committee notes with *satisfaction* the Government’s indication of the conclusion with all the confederations in the country of a new National State Agreement covering 1,200,000 workers in the public sector, which provides for a wage rise of 1.32 per cent above the inflation rate for 2019 and 2020, as well as a series of other improvements at the national and sectoral levels. The Committee notes that the three national trade union confederations (although the CUT and CTC indicate certain difficulties in relation to local bodies) welcome the significant progress in collective bargaining in the public sector, which is due to the existence of multi-level bargaining with an *erga omnes* effect at the national level. According to the trade union confederations, this mechanism should be extended to collective bargaining in the private sector.

*Promotion of collective bargaining in the private sector.* The Committee recalls that, in its previous comments, it noted with concern the very low level of coverage of collective bargaining in the private sector, as indicated by the national trade union confederations. The Committee also noted the indication by the trade union confederations that a series of both

legal and practical obstacles and inadequacies resulted in the complete absence of collective bargaining above the enterprise level, which in turn contributed to the very low coverage of collective bargaining in the private sector. The Committee requested the Government to take the necessary measures to promote the use of collective bargaining, in accordance with the Convention.

The Committee notes the Government's indication that: (i) according to data from trade union registers, detailed by sector of activity and regions, there are 781 collective agreements in force in the private sector; (ii) the number of collective agreements deposited between January and September 2019 was 268; (iii) the Ministry of Labour does not yet have a system enabling it to determine the coverage rate of collective bargaining but, with the support of Canada and the Office, it is developing a system for the registration of collective accords, trade union contracts and collective agreements which will provide such information by the end of 2019; (iv) the provisions of the Substantive Labour Code respecting the extension of collective agreements show that it is possible to bargain at the sectoral level; (v) although there is no text specifically regulating bargaining at the branch level, there is a successful case of collective bargaining in the country in the banana sector in the Urabá region covering 15,000 of the 17,600 workers concerned; and (vi) with technical assistance from the Platform of Social Organizations for Decent Work and the ILO, the CUT and the CTC began a major project to disseminate multilevel collective bargaining in the country at the end of the second half of 2018. The Committee also notes the Government's indication that, with a view to ensuring that unions have a strong capacity for negotiation and guaranteeing that these procedures are flexible and effective, it is proposed to amend Decree No. 089 of 2014, which promotes unified bargaining within the enterprise, to make it compulsory to submit unified claims and establish a single negotiating committee composed of members of all the trade unions. The Committee notes the Government's indication that, after referring the proposed amendment to the Office for comments, tripartite consultations are being held on its content.

The Committee also notes the indication by the CUT and CTC in their recent observations that: (i) according to the estimates of the National Trade Union School, only 1.75 per cent of the economically active population and 3.67 per cent of employees are covered by collective agreements; (ii) the absence of regulations governing collective bargaining at the branch level in the private sector renders it impossible in practice, which makes a decisive contribution to the very low coverage level; and (iii) the Organisation for Economic Co-operation and Development (OECD) Employment, Labour and Social Affairs Committee has requested the Government to promote a system of bargaining on two levels and to include provisions for sectoral bargaining in the Labour Code.

Noting with *regret* that, according to the data provided by the trade union confederations, the level of coverage of collective bargaining in the private sector continues to be very low, the Committee notes a significant contrast in this regard with the situation in the public sector. The Committee recalls that: (i) under the terms of *Article 4* of the Convention, it is the responsibility of the Government to take measures appropriate to national conditions, where necessary, to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organizations, on the one hand, and workers' organizations, on the other, with a view to the regulation of terms and conditions of employment by means of collective agreements; and (ii) in accordance with *Article 5(2)(d)* of Convention No. 154, which has been ratified by Colombia, the Government is required to ensure that collective bargaining is not hampered by the absence of rules governing the procedure to be used or by the inadequacy or inappropriateness of such rules.

While welcoming the Government's initiative to provide a framework for more flexible collective bargaining procedures at the enterprise level in a context of trade union pluralism, the Committee considers it necessary for the Government to address in the near future, in consultation with the social partners, all of the aspects which could hamper the effective promotion of collective bargaining in the private sector, as indicated in the Committee's comments concerning the Convention. ***Encouraged by the results achieved in the public sector, the Committee requests the Government, in consultation with the social partners, to take all measures in the near future, including legislative measures where appropriate, to promote the use of collective bargaining in the private sector at all appropriate levels. The Committee requests the Government to provide information on the progress achieved in this regard and recalls that it may have recourse to the technical assistance of the Office.***

*Settlement of disputes. Committee for the Handling of Conflicts referred to the ILO (CETCOIT).* The Committee notes the information provided by the Government and the ANDI on the activities of the CETCOIT, a tripartite body for the resolution of disputes relating to freedom of association and collective bargaining. The Committee notes with *interest* the Government's indication that: (i) between 2012 and 2017, the CETCOIT examined 191 cases, reaching 123 agreements; (ii) following the unanimous appointment of a new facilitator in April 2018, the CETCOIT is continuing its work effectively, and examined 24 cases in 2018, reaching 14 agreements; and (iii) from 2012 to 2019, the CETCOIT has achieved the conclusion of agreements in 63 per cent of the cases examined. The Committee notes the indication by the ANDI that the CETCOIT is an example of good practice in social dialogue which reflects the will of all the tripartite partners to make progress in seeking solutions to disputes. ***The Committee requests the Government to continue providing information in this regard.***

***Observing that, in its report on Convention No. 87, the Government indicates that the international affairs subcommittee of the Standing Committee for Dialogue on Wage and Labour Policies will follow-up on the examination of the comments made by the Committee of Experts on the application of the Conventions ratified by Colombia, the Committee hopes that the work of the subcommittee will facilitate the adoption of the various measures requested by the***

*Committee to give full effect to the Convention. The Committee recalls that the Government may request 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 comment in 2021.]*

## Comoros

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

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 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.*

## Congo

### **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 2020, 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 Government's reply to the allegations made by the International Trade Union Confederation (ITUC) in 2014 concerning a strike by teachers that reportedly resulted in: (i) the arbitrary arrest of teachers who are trade unionists by the Directorate-General for Territorial Surveillance (DGST); and (ii) the abduction in June 2013 of Mr Dominique Ntsienkoulou, a member of the Dialogue Group for the Redevelopment of the Teaching Profession (CRPE), by officials of the Provincial Directorate for Territorial Surveillance (DDST) and his subsequent disappearance. The Committee notes that, according to the Government: (i) the Directorate-General of the Police (and not the DGST) summoned the leaders of the CRPE to explain the reasons for their excessive action during the strike; and (ii) Mr Ntsienkoulou left his home on his own initiative and was never arrested, abducted or investigated by the national police services. In light of the divergent information provided by the ITUC and the Government, the Committee wishes to recall that the public authorities must not interfere in the legitimate activities of trade union organizations by subjecting workers to arrest or arbitrary detention, and that the arrest and detention of trade unionists, without any charges being brought or without a warrant, constitute a serious violation of the trade union rights enshrined in the Convention. *The Committee trusts that the Government will ensure that these principles are fully respected and urgently requests it to further investigate the situation of Mr Ntsienkoulou, particularly as to his safety and whereabouts and to provide information in this respect.*

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

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

The Committee notes the detailed observations of the Confederation of Workers Rerum Novarum (CTRN), received on 31 August 2019, as well as the joint observations of the Costa Rican Union of Chambers and Associations of Private Enterprises (UCCAEP) and the International Organisation of Employers (IOE), received on 2 September 2019, all of which relate to issues addressed by the Committee in this comment. *The Committee notes the Government's reply to the observations of the UCCAEP and the IOE and requests it to provide its comments in relation to the observations of the CTRN.*

In its latest comment, the Committee took note of the adoption of the Labour Proceedings Reform Act No. 9343 and noted with satisfaction that the Act amended the percentage of workers required to declare a strike. The Committee notes the Government's indication that, in November 2017, Executive Decree No. 40749 was issued, which regulates the call to vote required in order to exercise the right to strike, in accordance with the provisions of the Labour Proceedings Reform Act.

*Pending legislative issues. Articles 2 and 4 of the Convention.* The Committee recalls that for years its comments have referred to the following issues:

- *Registration of trade unions and acquisition of legal personality.* The Committee indicated to the Government the need to amend section 344 of the Labour Code to establish a short, specific period for the administrative authority to reach a decision on the registration of trade unions, after which, in the absence of a decision, they are deemed to have obtained legal personality. In this regard, the Committee notes the Government's indication that, although this situation has been remedied both in practice and in administrative law, the Committee's comments will be taken into account.
- *Right of organizations freely to elect their representatives.* Obligation for the trade union assembly to appoint the executive board each year (section 346(a) of the Labour Code). The Committee has drawn the attention of the Government to the need to amend section 346(a) of the Labour Code, which requires the executive board of trade unions to be appointed every year. In this regard, the Committee notes the Government's indication that although this article has not been amended, the Register of Civil Organizations does not apply this provision and the Ministry of Labour and Social Security, in practice, guarantees organizations full autonomy in determining the term of their executive boards.
- *Prohibition on foreigners from holding office or exercising authority in trade unions* (article 60(2) of the Constitution and section 345(e) of the Labour Code). The Committee indicated to the Government the need to amend article 60(2) of the Constitution and section 345(e) of the Labour Code, which prohibit foreigners from holding office or exercising authority in trade unions. The Committee recalls that a proposed constitutional reform had been submitted to the plenary of the Legislative Assembly to resolve this issue (legislative file No. 17804). The Committee notes the Government's indication that the above-mentioned proposed constitutional reform was shelved on 17 October 2018. The Government indicates that this decision followed a decision made by the Speaker of the Legislative Assembly, who ordered that bills that had exceeded the four-year deadline on that date should be shelved, in conformity with section 119 of the Regulations of the Legislative Assembly. The Government also indicates that it will undertake an assessment to consider the submission of a new constitutional reform proposal in the terms referred to by the Committee. The Government adds that, in practice, the Department of Civil Organizations in the Ministry of Labour and Social Security registers the appointment of foreigners to the executive bodies of trade unions when it is demonstrated that they comply with the legal requirements.

*Observing that no specific progress has been made in relation to the matters indicated, the Committee once again requests the Government to take all necessary measures to amend the above-mentioned provisions of the Labour Code and the Constitution in conformity with the Convention, as well as with the practice followed by the authorities. It requests the Government to provide information on developments in this respect.*

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: 1960)**

The Committee notes the Government's replies to the 2014 observations of the International Trade Union Confederation (ITUC) and the 2016 observations of the Confederation of Workers Rerum Novarum (CTRN). The Committee also notes the detailed observations of the CTRN, received on 31 August 2019, related to matters addressed by the Committee in the present comment. The Committee further notes the joint observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP) and the International Organisation of Employers (IOE), received on 2 September 2019, and notes the Government's reply to those observations.

*Articles 1 and 2 of the Convention. Adequate protection against acts of anti-union discrimination and interference.* In its most recent comment, the Committee noted with satisfaction that Act No. 9343 on reforming labour procedures, which

entered into force in July 2017, introduced amendments with the objective of making judicial procedures relating to acts of anti-union discrimination more expeditious and effective. The Committee notes the Government's indication that this Act introduced a special, expedited and preventive procedure for cases of anti-union discrimination, which are dealt with as a matter of priority and following a specific procedure, both by the administrative and judicial authorities. The Committee notes the statistical data provided by the Government and notes that: (i) between 2016 and 2019, the labour inspectorate processed a total of 67 cases of anti-union harassment or unfair labour practices; (ii) the procedures for these cases were before the administrative authorities for 104 days on average; (iii) between July 2017 and May 2019, a total of 207 files related to special protection cases were submitted to the judicial authorities, 59 of which were for anti-union discrimination; and (iv) on average, procedures for anti-union discrimination cases were before the judicial authorities for 128 days, from the submission of the file until the ruling of the Second Chamber of the Supreme Court of Justice. Recalling that, in previous years, the Committee noted that the slowness of procedures in cases of anti-union discrimination resulted in a period of not less than four years being required to obtain a final court ruling, the Committee notes with *satisfaction* the statistical information provided by the Government, which bears witness to the practical impact of the procedural reform. The Committee also notes that the Government hopes to be able to provide information on the nature of the penalties and compensation at a later date. ***The Committee, encouraged by the developments regarding the length of procedures, requests the Government to continue providing statistics on the number of cases of discrimination examined and the length of the procedures, and also to provide information on the nature of the penalties and compensation imposed.***

*Article 4. Collective bargaining in the public sector. Public servants not engaged in the administration of the State.* The Committee recalls that, for many years, it has been expressing concern with regard to the frequent use of legal actions for unconstitutionality to challenge the validity of collective agreements concluded in the public sector. In its last comment, the Committee had taken note that the Office of the Comptroller General of the Republic had lodged a legal action for unconstitutionality against a collective agreement of a public sector bank and that the legal action was still pending. The Committee notes that this issue was examined recently by the Committee on Freedom of Association in Case No. 3243 and refers to the recommendations made by that Committee in its 391st report of October–November 2019. The Committee also notes the Government's indication that is continuing to implement the policy for the revision of collective agreements in the public sector, initiated in 2014, with the objective of avoiding recourse to legal procedures and seeking, through social dialogue, to streamline and adapt them to the country's fiscal reality and austerity policy. The Government further indicates that the parties, after denouncing their collective agreements, renegotiate a new agreement, in line with the parameters of reasonableness and proportionality established by the Constitutional Chamber, which diminishes the possibility of the collective agreements being challenged later through constitutional action. In this regard, the Government reports that, during 2018 and until May 2019, the Department of Labour Relations of the Directorate of Labour Affairs approved 19 collective agreements in the public sector. The Committee also notes that, in its observations, the CTRN denounces a series of violations to the right of public servants to negotiate collectively their terms and conditions of employment. The Committee notes that the issues to which the CTRN refers to in its observations, coincide with the issues that are the subject of a representation made under article 24 of the ILO Constitution, which is pending.

The Committee emphasizes that, for many years it has been examining a number of obstacles to the full implementation of *Article 4* of the Convention in the country's public sector. The Committee recalls, in this regard, that all workers in the public sector who are not engaged in the administration of the State (for example, employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers and transport sector personnel) shall enjoy the right to collective bargaining, including with respect to wages, and that while the special characteristics of the public service require some flexibility, there are mechanisms through which compliance with budgetary limitations can be reconciled with the recognition of the right to collective bargaining.

***Recalling its previous observations, the Committee trusts that the Government, in consultation with the representative trade unions in the sector, will take the measures at its disposal to strengthen the right to collective bargaining of public servants not engaged in the administration of the State. The Committee requests the Government to report on any action taken in this regard.***

*Direct agreements with non-unionized workers.* In its previous comments, the Committee noted with concern that, while the number of collective agreements in the private sector remained very low, the number of direct agreements with non-unionized workers was very high. The Committee also noted Ruling No. 12457-2011, which confirmed that direct agreements could not prejudice the negotiation of collective agreements and, consequently, the exercise of freedom of association. In this respect, the Committee notes the Government's indication that compliance with this ruling is mandatory, for both the administrative and judicial authorities and that, accordingly, on 2 May 2012, the labour inspectorate issued Circular No. 018-12, addressed to all the officials of the labour inspectorate, indicating that, in the event that there is a trade union organization and a permanent workers' committee, the inspector shall ensure that there is no violation of freedom of association, and in the event of any conflict or discord that warrants any type of negotiation or conciliation, the inspector shall inform the Directorate of Labour Affairs so that it may follow the applicable procedure under the terms of Ruling No. 12457-2011. The Committee takes note of the statistical data provided by the Government and notes that: (i) between 2014 and April 2019, an average of 30 collective agreements per year were concluded in the private sector and 80 collective agreements per year in the public sector; and (ii) in the period from 2014 to August 2018, an average of 160 direct agreements per year were concluded. The Committee also notes that, while in 2018 some 83 collective agreements were

concluded in the public sector and 33 collective agreements in the private sector, covering 153,037 and 14,346 workers respectively, in the same year, 180 direct agreements were concluded, covering 48,239 workers. The Commission further notes that the number of direct agreements has increased over the years: from 118 direct agreements in 2014, to 180 direct agreements in 2018. The Committee recalls that it has always considered that direct bargaining between the enterprise and unorganized groups of workers, in avoidance of workers' organizations, where they exist, is not in accordance with the promotion of collective bargaining, as set out in *Article 4* of the Convention. The Committee has also noted that in practice the negotiation of terms and conditions of employment and work by groups which do not fulfil the guarantees required to be considered workers' organizations can be used to undermine the exercise of freedom of association and weaken the existence of workers' organizations with the capacity to defend the interests of workers independently through collective bargaining. ***Noting that the number of direct agreements has increased considerably in comparison to the number of collective agreements in the private sector, the Committee requests the Government to take all necessary measures, including of a legislative nature, to step up the promotion of collective bargaining with trade union organizations within the meaning of the Convention. The Committee also requests the Government to provide information on the impact of Circular No. 018-12 of the labour inspectorate, as well as any other measures adopted in light of Ruling No. 12457-2011.***

## Croatia

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*** ***(ratification: 1991)***

The Committee had previously noted the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018, according to which private and public sector employers would undermine the collective bargaining process by delaying negotiations, promoting negotiations with yellow unions and concluding agreements directly with works councils. The Committee notes the Government's response to these observations, according to which: (i) the Labour Act 2014 provides trade unions with the legislative possibility to take collective action in the event of a conflict related to the conclusion, amendment or renewal of a collective agreement; and (ii) the internal regulations adopted by companies in agreement with works councils have no negative impact on the collective bargaining process and, on the contrary, improve the protection of workers in the country. ***While taking due note of these elements, the Committee requests the Government, on the one hand, to give more details on the relationship between the company's internal regulations and the collective agreements negotiated with trade unions and, on the other hand, to provide statistics on the number of collective agreements signed and in force in the country, indicating the sectors concerned and the number of workers covered.***

The Committee further notes that the Government has not responded to its previous comments, which are reproduced below.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Rapid appeal procedures.* In its previous comments, the Committee had noted the allegations of excessive court delays in dealing with cases of anti-union discrimination and requested the Government to provide details on the measures taken or envisaged to accelerate judicial proceedings in cases of anti-union discrimination and to provide statistics concerning the impact of such measures on the length of proceedings. The Committee notes that the Government indicates that: (i) due to the large number of labour disputes in the area, the Government has undertaken judicial reforms in order to accelerate judicial proceedings including the establishment of the Municipal Labour Court in Zagreb; (ii) by virtue of the Law on Areas and Seats of the Courts, which entered into force on 1 April 2015, five county courts (Bjelovar County Court, Osijek County Court, Rijeka County Court, Split County Court and Zagreb County Court) have been charged with the harmonization of court practices and the acceleration of appeal proceedings regarding labour disputes before municipal courts; and (iii) since 2014, 30 civil actions regarding anti-union discrimination have been brought before the courts, of which eight complaints have been solved by the courts; 31 cases are still pending (nine of which were filed before 2014). While taking due note of the detailed elements provided by the Government, the Committee observes with **concern** that it stems from this information that the judicial resolution of anti-union discrimination cases is still characterized by excessive delays. ***Recalling 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, the Committee urges the Government to take, jointly with the competent authorities, effective measures to significantly accelerate the judicial proceedings in cases of anti-union discrimination. The Committee requests the Government to provide information in this respect as well as on the results obtained, and recalls that it may avail itself of the technical assistance of the Office.***

*Articles 4 and 6. Collective bargaining of public servants not engaged in the administration of the State.* The Committee recalls that since 2007 it has been examining allegations related to the unilateral modification, for financial reasons, of the substance of collective agreements in the public sector through the adoptions of several Acts. The Committee recalls that this issue was also addressed by the Committee on the Application of Standards in 2014 and by the Committee on Freedom of Association (CFA). The Committee further observes that both the 2016 observations of the Union of Autonomous Trade Unions of Croatia (UATUC) and the Association of Croatian Trade Unions (MATICA) also refer to this question. The Committee notes that, concerning the effects of the Act on Withdrawal of Right to Salary Increase Based on Years of Service, the CFA had noted in October 2016 that the Act was no longer in force since 1 January 2016 and had understood that negotiations concerning wage increase between the Government and public and civil service unions had since begun. After recalling that, in the context of economic stabilization, priority should be given to collective bargaining as a means of determining the employment conditions of public servants, rather than adopting legislation to restrain wages in the public sector, the CFA had trusted that, for the maintenance of the harmonious development of labour relations, the parties would bargain in good faith and make every effort to reach an agreement (see 380th Report of the Committee on Freedom of Association, Case No. 3130, paragraph 398). The Committee further notes that the Government states that: (i) all acts of realization adopted for the period 2011–17 do not contain provisions on the unilateral

amendment of the provisions of a collective agreement in the public service for financial reasons; (ii) the Act on non-payment of certain financial rights of persons employed in public services is no longer in force since 1 January 2016; and (iii) since 2017, the basic salary for both civil and public servants increased by 2 per cent, and other material rights are being fully paid as agreed in collective agreements. The Committee takes due note of this information. ***Underlining the importance of ensuring that any future Act related to the State Budget does not enable the Government to modify, for financial reasons, the substance of collective agreements applicable to the public servants not engaged in the administration of the State, the Committee requests the Government to provide updated information on the collective agreements negotiated and signed in the public sector, and to indicate whether the 2 per cent increase in wages is the result of collective bargaining.***

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.***

## Cuba

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

***Trade union rights and civil liberties.*** The Committee recalls that, in its previous comments, it had expressed regret that the Government had not provided copies of the court rulings connected with specific cases of convictions of workers belonging to the Independent National Workers Confederation of Cuba (CONIC), persecution and threats of imprisonment against delegates of the Light Industry Workers' Union (SITIL) and the confiscation of equipment and humanitarian aid sent from abroad to the Single Council of Cuban Workers (CUTC). The Committee notes the Government's repeated indication that the trade unionists were convicted for committing offences duly defined in law and that it cannot be claimed that there has been a violation of the Convention, and that, in its latest report, the Government claims that the ILO supervisory bodies are being manipulated and that the Committee should not request information relating to Case No. 2258, which was examined by the Committee on Freedom of Association. The Committee ***deeply regrets*** that the Government has again failed to comply with the Committee's request to provide copies of the requested court rulings, recalling that, in this respect, it also failed to give effect to the recommendations of the Committee on Freedom of Association (see Report No. 343, relating to Case No. 2258), and that the Committee on Freedom of Association recently indicated once again that it regretted the Government's refusal to provide the rulings issuing sentences in relation to other allegations of persecution of trade unionists (see Case No. 3271, Report No. 389). ***The Committee once again requests the Government to provide copies of the rulings in question.***

## Democratic Republic of the Congo

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

***Articles 2 and 5 of the Convention. Right to organize in the public service.*** In its previous comments, the Committee noted that: (i) under the terms of section 94 of Act No. 16/013 of 15 July 2016 on the conditions of service of permanent public service employees, freedom of association is guaranteed for public service employees; and (ii) under section 93 of the Act, the exercise of the right to strike by public service employees can only be restricted under the conditions established by the law, in particular, so as to ensure the normal provision of "public services of vital interest, which cannot suffer any type of interruption." A Decree of the Prime Minister establishes the list of services of vital interest, as well as the details of the minimum service in these services. The Committee notes the Government's indications that a copy of the Decree will be communicated following its publication in the *Official Journal*. In this regard, the Committee recalls that the right to strike may be restricted or prohibited: (i) in the public service only for public servants exercising authority in the name of the State; or (ii) in essential services in the strict sense of the term; or (iii) in the case of an acute national or local crisis. ***The Committee trusts that the Decree in question will be adopted shortly, taking into account the Committee's observations, and requests the Government to provide a copy of the Decree with its next report.***

With regard to the trade union rights of judges, the Committee previously noted that, according to the Government, the freedom of association of judges is recognized under the provisional Order of 1996 and that judges' trade unions exist. The Committee had noted that Organic Act No. 06/020 of 10 October 2006 on the conditions of service of judges, to which the Government refers in its report, did not contain any provisions that address the concerns of the Committee and therefore requested the Government to indicate whether provisions were envisaged to explicitly ensure that judges enjoy the rights laid down in the Convention. The Committee notes the Government's indications that the provisional Order of 1996 remains in force pending the amendment of the Act of 2006, which was being discussed in Parliament. ***The Committee trusts that the revision process of the Act of 2006 will be concluded as soon as possible and will ensure freedom of association of judges. It requests the Government to provide, with its next report, a copy of the revised Act.***

***Article 3. Right of foreign workers to hold trade union office.*** In its previous comments the Committee noted with regret that Act No. 16/010 of 15 July 2016 amending and supplementing Act No. 015-2002 on the Labour Code did not remove the provision requiring 20 years of residence in order to be eligible for appointment to administrative or executive positions in trade unions (new section 241). The Committee recalled that a period of three years is reasonable in this respect but that a 20-year period for access to trade union office is excessive (see the 2012 General Survey on the fundamental

Conventions, paragraph 103). The Committee notes the Government's indication that it has undertaken to bring this matter before the National Labour Council. **Recalling once again that national legislation should allow foreign workers to take up trade union office, at least after a reasonable period of residence in the host country, the Committee expects the Government to take measures, in the near future, to amend section 241 of the Labour Code, as revised by the Act of July 2016, accordingly.**

*Articles 3 and 4. Other legislative and regulatory issues.* In its previous comments, the Committee requested the Government, on numerous occasions, to take steps to amend: (i) section 11 of Order No. 12/CVAB.MIN/TPS/113/2005 of 26 October 2005, which prohibits striking workers from entering and remaining on work premises affected by the strike; (ii) section 326 of the Labour Code and in that regard suggested including an additional provision stipulating that penalties against strikers must be proportionate to the offence committed and that no prison sentence shall be imposed unless criminal or violent acts have been committed; (iii) section 28 of Act No. 016/2002 concerning the establishment, organization and functioning of labour tribunals so as to allow recourse to the labour tribunal, should conciliation and mediation procedures have been exhausted, only on the basis of a voluntary decision of the parties to the dispute; and (iv) section 251 of the Labour Code to ensure that the issue of the dissolution of trade union organizations will be regulated by their union constitutions and rules.

The Committee notes with **concern** that, despite the adoption of Act No. 16/010 of 15 July 2016 (amending and supplementing the Labour Code) and of Act No. 016/2002 (concerning the establishment, organization and functioning of labour tribunals), the above provisions are still not in conformity with the requirements of the Convention, and that the Government only indicates that the above matters will be brought before the National Labour Council. **The Committee expects that the Government will take all necessary measures to amend the above provisions and that it will refer to specific progress made in its next report.**

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1969)**

*Article 2 of the Convention. Protection against acts of interference.* The Committee previously recalled that although section 235 of the Labour Code prohibits all acts of interference by employers' and workers' organizations in each other's affairs, section 236 provides that acts of interference shall be defined more precisely in an Order issued by the Minister of Labour and Social Welfare in consultation with the National Labour Council. The Committee notes that the Government merely indicates that the matter will soon be submitted to the National Labour Council. **Noting with concern that the Order in question has still not been adopted, the Committee trusts that the Government's next report will finally indicate that specific progress has been made in this regard, and that the Order will include the various cases envisaged under Article 2 of the Convention.**

*Articles 4 and 6. Collective bargaining in the public sector.* In its previous comments, the Committee requested the Government to take the necessary measures to establish the right to collective bargaining of all public servants not engaged in the administration of the State explicitly in the national legislation, so that the legislation is consistent with the practice. The Committee noted in this regard that while Act No. 16/013 of 15 July 2016 on the conditions of service of permanent public service employees recognizes the right of public servants to organize and to strike and establishes consultative bodies, it does not provide for machinery for collective bargaining on conditions of employment. The Committee noted at the same time that the persons covered by the Act are primarily employees engaged in the administration of the State (section 2). The Committee recalls once again that, under Article 6, the Convention applies to workers and public servants who are not engaged in the administration of the State (for instance, employees in public enterprises, municipal employees and those in decentralized entities, public sector teachers, as well as transport personnel) (see the 2012 General Survey on the fundamental Conventions, paragraph 172). **Noting with regret that there has been no progress on this point, the Committee urges the Government to specify how the right to collective bargaining is granted to various categories of public servants not engaged in the administration of the State and to take, if necessary, steps to ensure that this right is granted to them both in law and in practice. It also requests the Government to provide information on the creation and functioning of the joint Government/trade union committees to which the Government refers in its report, as well as to any collective bargaining process in the public sector.**

*Branch-level collective bargaining.* The Committee observes with **concern** that the Government does not provide information on the adoption of the Order defining the functioning of the joint committees, provided for under the terms of section 284 of the Labour Code relating to branch-level collective bargaining. **Recalling once again that its initial request in relation to this matter was made in 2003, the Committee expresses the firm hope that the Order defining the functioning of the joint committees will be adopted without further delay.**

*Promotion of collective bargaining in practice.* **The Committee requests the Government to provide information on the measures taken or envisaged to promote collective bargaining, the number of collective agreements concluded and in effect in the country, as well as on the sectors concerned and the number of workers covered by these agreements.**

## Denmark

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1955)

The Committee notes the observations from the Danish Trade Union Confederation (FH), submitted with the Government's report, as well as the Government's comments, concerning issues addressed in the present observation.

*Article 4 of the Convention. Right to free and voluntary collective bargaining.* In its previous comments, the Committee had observed that section 10 of the Act on the Danish International Register of Shipping (DIS Act) continued to have the effect of limiting the scope of collective agreements concluded by Danish trade unions to seafarers on ships registered in the Danish International Ship Register (DIS) who were Danish or equated residents and of restricting the activities of Danish trade unions by prohibiting them from representing, in the collective bargaining process, those of their members who were not considered as residents in Denmark. While the Committee had noted the establishment by the Danish Shipowners Association (DSA) and the Danish Metal Workers' Union (DMWU) of a joint working group in the Contact Committee under the Danish International Ship Register Main Agreement (DIS Main Agreement) in respect of the existing disagreement on section 10 of the DIS Act, the Committee had further observed that several social partners were not involved in the working group and that no significant progress had been made towards addressing the legislative aspect of the matter. The Committee had therefore requested the Government: (i) to continue making every effort to ensure full respect of the principle of free and voluntary collective bargaining so that Danish trade unions may freely represent in the collective bargaining process all their members – Danish or equated residents, as well as non-residents – working on ships sailing under the Danish flag, and that collective agreements concluded by Danish trade unions may cover all their members working on ships sailing under the Danish flag regardless of residence; and (ii) to engage in a tripartite national dialogue, taking all the necessary measures to enable all the relevant workers' and employers' organizations to participate therein, if they so wish, so as to find a mutually satisfactory way forward. The Committee notes the Government's indication that: (i) after discussions in the Contact Committee under the DIS Main Agreement, the organizations proposed that the DIS Act should be amended in order to allow Danish trade unions to enter into collective agreement on behalf of all seafarers on ships mainly carrying out the activities concerned in the Danish territorial waters or continental shelf area for more than 14 days a month; (ii) the former Minister for Industry, Business and Financial Affairs presented a proposal for an Act amending the DIS Act, which was drawn up in accordance with the organizations' proposal to the Parliament; (iii) the Act includes seafarers who are engaged in a number of activities which include, among others, certain types of guard service as well as support and service functions, and construction, repair and dismantling of oil installations; (iv) it is a requirement that the ships mainly carry out the activities concerned in the Danish territorial waters or continental shelf area for more than 14 days a month; and (v) the Parliament passed the Act unanimously and it is expected to enter into force later this year. The Committee notes the FH's statement that while it recognizes the importance of the amendment to the DIS Act referred to by the Government, it affirms that the amendment is not sufficient to address the matter, as its scope is limited to vessels operating in Danish territorial waters or continental shelf, having no effect on vessels covered by the DIS Act. The Committee takes note that, in response to the observation made by the FH, the Government states the conditions leading to the establishment of the DIS still apply. *While welcoming the step taken through the amendment of the DIS Act, the Committee requests the Government to continue, in consultation with the social partners, to make every efforts to ensure the full respect of the principles of free and voluntary collective bargaining so that Danish trade unions may freely represent in the collective bargaining process all their members and that collective agreements concluded by Danish trade unions may cover all their members – working on ships sailing under the Danish flag whether they are within or beyond Danish territorial waters or continental shelf, and regardless of their activities. The Committee requests the Government to provide information on any developments in this regard.*

## Djibouti

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

The Committee notes the observations of the General Union of Djibouti Workers (UGTD) and the Labour Union of Djibouti (UDT), received on 23 August 2019, and of Education International (EI), received on 20 September 2019, containing grave allegations of anti-union repression. *The Committee requests the Government to provide its comments in this respect.*

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 administration and activities in full freedom.* In its previous comments, the Committee asked the Government to indicate the reasons for the arrest at Djibouti airport in May 2014 of Mr Adan Mohamed Abdou, Secretary-General of the Labour Union of Djibouti (UDT), who was to attend the 103rd Session of the International Labour Conference (May–June 2014) as an International Trade Union Confederation (ITUC) observer, and whose travel documents and luggage were confiscated. The Government merely indicated that it does not recognize Mr Mohamed Abdou's status as a worker representative as he is an elected Member of Parliament. In its last report, the Government indicates that it is in the process of gathering the necessary information to explain why Mr Mohamed Abdou was prohibited from leaving

the country. The Committee recalls that leaders of organizations of workers and employers should enjoy appropriate facilities for carrying out their functions, including the right to leave the country when their activities on behalf of the persons they represent so require; moreover, the free movement of these representatives should be ensured by the authorities. *Noting with regret the failure to provide the requested information more than three years after the events, the Committee expects that the Government will indicate without delay the reasons why Mr Mohamed Abdou was prohibited from leaving the country, which prevented him from participating in the International Labour Conference in May and June 2014, and specify whether this prohibition has been lifted.*

*Trade union situation in Djibouti.* The Committee also notes the conclusions of the Credentials Committee at the 106th Session of the International Labour Conference (June 2017) regarding an objection concerning the nomination of the Workers' delegation of Djibouti. In this respect, the Committee notes with **concern** the Credentials Committee's indication that confusion continues to reign over the trade union landscape in Djibouti. The Credentials Committee particularly refers to the information provided by the appealing organizations indicating that the situation of trade unions has deteriorated and that the phenomenon of "clone unions" (trade unions established with the Government's support) now also affects primary unions. In this respect, the Committee recalls that the trade union situation in Djibouti has been the subject of concerns expressed by the supervisory bodies, including the Committee on Freedom of Association, since many years. *Noting that the Conference Committee calls upon the ILO supervisory bodies to take all necessary measures to provide, with the cooperation of the Government, before the next session of the Conference, a reliable, comprehensive and up-to-date assessment of the situation of trade union movements and freedom of association in Djibouti, the Committee expects that the Government will ensure the development of free and independent trade unions in conformity with the Convention and that it will take all necessary measures to allow for an evaluation of the trade union situation in Djibouti, with the technical assistance of the Office if it so desires.*

*Legislative issues.* The Committee recalls that its comments have focused, for many years, on the need to take measures to amend the following legislative provisions:

- 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 officials.

*Noting with regret that the Government confines itself to indicating that it is planning a revision of the Labour Code, the Committee expects that the Government will take the necessary measures to amend the above provisions and that it will indicate in its next report specific progress 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.*

## Dominican Republic

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

The Committee notes the observations of the Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD), of 3 September 2018 and 5 September 2019, addressed in the present observation.

*Application of the Convention in practice.* The Committee duly notes that the Government, in its responses to the observations of 2013 of the International Trade Union Confederation (ITUC) relating to acts of violence and threats against leaders of the National Union of Workers of Frito Lay Dominicana (SINTRALAYDO), indicates that: (i) the investigations conducted did not establish the existence of acts of violence or threats against trade union leaders; (ii) the charges against the company were never reported on the various occasions that the union and company participated in round table negotiations led by the Directorate of Mediation and Arbitration; and (iii) the labour inspectorate did, in fact, note unfair practices in the sector and imposed the appropriate penalties. With respect to the 2016 observations of the CASC, CNUS and CNTD on the practical obstacles to obtaining legal personality for trade unions, the Government indicates that in 2013 all registration applications were granted and that between 2014 and 2016 the registration applications of three trade unions were rejected as they did not comply with substantive criteria (they did not corroborate their members' worker status or comply with the minimum number of 20 workers).

*Legislative issues.* The Committee recalls that for a number of years it has been requesting the Government to take the necessary steps to amend the following legislative provisions which are not in conformity with *Articles 2, 3 and 5* of the Convention:

- section 84(I) of the regulations implementing the Civil Service and Administrative Careers Act (Decree No. 523-09), which maintains the requirement to affiliate at least 40 per cent of the total number of employees enjoying the right to organize in the institution concerned, in order to be able to establish an organization of civil servants;
- section 407(3) of the Labour Code, which requires at least 51 per cent of workers' votes in the enterprise in order to call a strike; and
- section 383 of the Labour Code, which requires federations to obtain the votes of two-thirds of their members to be able to establish confederations.

In its previous comments, the Committee also noted that the Commission for Reviewing and Updating the Labour Code, established in 2013, was at that time engaged in discussions and consultations, that the amendments proposed had

been discussed by the Labour Advisory Committee and that on 1 July 2016 a tripartite agreement was signed in order to establish a Round Table on Matters relating to International Labour Standards, the main objective of which is to ensure observance of international labour standards. The Committee notes that, according to the Government, meetings have been held by the Ministry of Labour and the Ministry of Public Administration in the public sector aimed at bringing legislation governing this sector into line with international conventions; that the Commission for Reviewing and Updating the Labour Code is continuing with consultations and discussions in the private sector; and that tripartite meetings have been held with a view to possibly reforming the Code. The Committee also notes that, in their observations of 2018 and 2019, the CASC, CNUS and CNTD criticize the functioning both of the Commission for Reviewing and Updating the Labour Code and the Round Table on Matters relating to International Labour Standards, questioning their effectiveness and claiming that there is a reluctance to engage in dialogue.

*The Committee refers to its observation within the framework of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), relating to the functioning of the Commission for Reviewing and Updating the Labour Code and the Round Table on Matters relating to International Labour Standards. The Committee expresses the strong hope that, through effective social dialogue, the new Labour Code and new legislation governing workers in the public sector will be adopted in the very near future and that, taking into account the Committee's comments, these legislative revisions will be in full conformity with the provisions of the Convention. The Committee requests the Government to provide information on all progress made in this respect and recalls that the Government may, if it so wishes, seek technical assistance from the Office.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1953)**

The Committee notes the observations of the National Confederation of Trade Union Unity (CNUS), the Autonomous Confederation of Workers' Unions (CASC) and the National Confederation of Dominican Workers (CNTD) dated 31 August 2018 and 3 September 2019, which refer, firstly, to issues addressed in this observation and, secondly, to allegations of repeated acts of anti-union discrimination during the negotiation process of a collective agreement and the lack of material resources of labour inspectors. *Noting the repeated nature of the allegations of anti-union discrimination, the Committee requests the Government to provide its comments in this respect.*

The Committee notes the replies of the Government to the observations of the CNUS, the CASC and the CNTD of 2016. The Committee notes that some of these issues were examined by the Committee on Freedom of Association in Cases Nos 2786 and 3297. The Committee also notes the Government's replies regarding the allegations of the obstruction of collective bargaining in two enterprises.

With respect to the establishment of the Roundtable on Matters relating to International Labour Standards, the Government reports that the Roundtable has been operating regularly since June 2018, with the objective of gaining a knowledge of the cases and finding a solution to which all parties agree. The Committee also notes the observations of the CNUS, the CASC and the CNTD of 2018 alleging that the Roundtable is ineffective. *The Committee refers to its observation under the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) and trusts that the matters addressed in the present observation will be taken into account in the discussions that take place at the Roundtable.*

#### **Application of the Convention in the private sector**

*Articles 1 and 2 of the Convention. Effective and rapid application of dissuasive penalties against acts of anti-union discrimination and interference.* In its previous observations, the Committee noted the establishment of the Commission for Reviewing and Updating the Labour Code and the procedural difficulties faced by the magistrates' courts in the application of the penalties envisaged in sections 720 and 721 of the Labour Code, and requested the Government to adopt procedural and substantive reforms to enable the effective and rapid application of penalties and to provide statistics concerning the length of judicial proceedings. The Government indicates, in relation to the length of judicial proceedings, that on average: (i) in the first instance a case is heard within six months; (ii) an appeal is heard within six further months; and (iii) in the event that the case is subject to a cassation appeal, the ruling is handed down within approximately one year. The Committee further notes the observations of the CNUS, the CASC and the CNTD in relation to the delays in the cases regarding anti-union discrimination, which may be before the courts for between six and seven years. While noting the absence of information from the Government on the procedural difficulties faced by the magistrates' courts in the application of sections 720 and 721 of the Labour Code, as well as the diverging opinions expressed by the Government and the trade union organizations in relation to the duration of judicial proceedings, the Committee recalls 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 (see the 2012 General Survey on the fundamental Conventions, paragraph 190). *In light of the foregoing, the Committee once again expresses the firm hope that procedural and substantive reforms will be adopted in the near future to enable the effective and rapid application of penalties as a deterrent against acts of anti-union discrimination and interference. Furthermore, the Committee once again requests the Government to send detailed statistics concerning the length of judicial proceedings relating to anti-union acts and to provide information on the application of penalties in practice, and on the deterrent effect thereof (amount of fines*

*imposed and number of enterprises concerned), as well as on the number of union leaders reinstated under sections 389 to 394 of the Labour Code.*

*Article 4. Promotion of collective bargaining. Majorities required for collective bargaining.* For many years, the Committee has been referring to the need to amend sections 109 and 110 of the Labour Code, which stipulate that, in order to engage in collective bargaining, a trade union must represent an absolute majority of the workers in an enterprise or a branch of activity. In this respect, the Government indicates once again that the Commission for Reviewing and Updating the Labour Code is in the process of reviewing the Labour Code and the content of sections 109 and 110 will be discussed in the context of these tripartite consultations. *Noting that several years have passed since the review process of the Labour Code began, the Committee firmly hopes that this process will give rise in the near future to the amendment of sections 109 and 110, in accordance with the Committee's previous observations. The Committee requests the Government to report any developments in this respect.*

#### **Application of the Convention in the public service**

*Articles 1, 2 and 6. Protection of public servants not engaged in the administration of the State against acts of anti-union discrimination and interference.* In its previous comments, the Committee, noting that Act No. 41-08 on the public service only covers a union's founders and a number of its leaders, requested the Government to take the necessary steps to ensure that public servants not engaged in the administration of the State fully enjoy specific protection against acts of interference from their employer, providing for sufficient dissuasive penalties against acts of discrimination and interference. *The Committee notes with regret the absence of specific information from the Government in this respect and firmly hopes that the Government will take the necessary measures to ensure that public servants not engaged in the administration of the State enjoy adequate protection against acts of discrimination and interference.*

*Articles 4 and 6. Right to collective bargaining of public servants not engaged in the administration of the State.* In its previous comments, the Committee noted that there was no reference to the right to collective bargaining in Act No. 41-08 on the public service or its implementing regulations and requested the Government to take the necessary measures without delay to secure recognition in law of the right to collective bargaining of public servants who are not engaged in the administration of the State. The Committee notes the Government's indication that joint meetings have been planned with officials from the Ministry of Public Service in order to examine the possibility of recognizing in law the right to collective bargaining of public servants who are not engaged in the administration of the State. *The Committee firmly hopes that the Government will take the necessary measures to secure recognition in law of the right to collective bargaining of public servants who are not engaged in the administration of the State and requests the Government to provide information on any developments in this respect.*

*The Committee reminds the Government that it may avail itself of technical assistance of the Office if it so wishes.*

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

## **Ecuador**

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

The Committee notes the Government's response to the joint observations of Public Services International in Ecuador (PSI-Ecuador) and the National Federation of Education Workers (UNE) of 2017. The Committee also notes the joint observations of PSI-Ecuador and UNE, received on 31 August 2018 and 28 August 2019, as well as the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, which refer to the matters examined within the framework of the present Convention.

The Committee welcomes the Government's request to the ILO for technical assistance regarding the process of legislative reform, with a view to addressing the observations and recommendations of the ILO supervisory bodies. The Committee trusts that this technical assistance will enable the Government to take the necessary measures regarding the issues raised in previous comments with respect to the present Convention, which are recalled below.

Regarding the application of the Convention in the public sector, the Committee requested the Government to:

- provide information on the mechanisms which enable organizations of public servants, other than the committees of public servants, to represent and defend the interests of their members;
- take the necessary steps to ensure that the rules referred to in Decree No. 193, which retains engagement in party-political activities as grounds for dissolution and provides for administrative dissolution, do not apply to associations of public servants whose purpose is to defend the economic and social interests of their members; and
- encouraged by the initiation of dialogue between the Government and the UNE and by the repeal of Decree No. 16, which constituted one of the legal bases for the dissolution of the UNE and for the revocation of the dissolution of several social organizations, the Committee trusted that the Government would soon be in a position to report the revocation of the dissolution of the UNE so that this organization can immediately resume its activities to defend the occupational interests of its members.

Regarding the application of the Convention in the private sector, the Committee requested the Government to:

- in consultation with the social partners, take the necessary measures to reform 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 also to enable the establishment of primary-level unions comprising workers from several enterprises;
- amend section 10(c) of Ministerial Decision 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 mandate, as set out in their respective union constitutions, so as to ensure that, subject to the observance of democratic rules, the consequences of any delay in holding elections shall be determined by the union constitutions themselves;
- take the necessary measures to amend section 459(3) of the Labour Code in such a way that workers who are not enterprise committee members may only stand for office if the enterprise committee's own constitution envisages that possibility; and
- take the necessary steps to amend section 346 of the Basic Comprehensive Penal Code, which provides for imprisonment of one to three years for any person who obstructs or stops the normal provision of a public service, so as to prevent the imposition of criminal penalties on workers engaged in a peaceful strike.

*Welcoming the Government's engagement with the Office on these matters, the Committee trusts that the technical assistance will enable significant progress to be made.*

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 2020.]*

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

The Committee notes the joint observations of Public Services International in Ecuador (PSI-Ecuador) and the National Federation of Education Workers (UNE), received on 28 August 2019, which refer to issues examined in the context of the present comment. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, which refer to issues examined in the context of the present comment, as well as specific allegations of anti-union discrimination in the public and private sectors. *The Committee requests the Government to provide its comments on the above allegations of anti-union discrimination.*

The Committee welcomes the request for technical assistance submitted by the Government to the Office in relation to the legislative reform process and with a view to following up on the observations and recommendations formulated by the ILO supervisory bodies. The Committee trusts that this technical assistance will enable the Government to take the necessary measures regarding the issues raised in previous comments with respect to the present Convention, which are recalled below.

Regarding the application of the Convention in the public sector, the Committee requested the Government to:

- report on the penalties and compensation applicable to acts of anti-union discrimination and interference committed in the public sector, indicating the legislative or regulatory provisions that establish them;
- indicate whether, in addition to the leadership of the Civil Service Committee, the leaders of organizations of public servants also have extra protection against the elimination of positions or benefit from other similar measures, including in the event of recourse to the compulsory purchase of redundancy mechanism;
- provide information with respect to an application for a constitutional review, which, according to PSI-Ecuador and UNE, was submitted in relation to the compulsory purchase of redundancy mechanism; and
- reopen an in-depth debate with the trade unions concerned with a view to establishing an adequate collective bargaining mechanism for all categories of workers in the public sector covered by the Convention.

Regarding the application of the Convention in the private sector, the Committee requested the Government to:

- take the necessary measures to ensure that the legislation includes a specific provision guaranteeing protection against acts of anti-union discrimination in access to employment;
- in consultation with the social partners, take the necessary steps to amend section 221 of the Labour Code so that where there is no organization with over 50 per cent of the workers as members, minority trade unions may, either alone or jointly, at least negotiate on behalf of their members;
- communicate their comments on the observations of the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC), transmitted by PSI-Ecuador and UNE, on the effects of the ministerial orders which establish new forms of contract for banana plantation workers and agricultural workers in the effective exercise of the right to collective bargaining in those sectors.

*The Committee trusts that the technical assistance which will be afforded shortly will enable significant progress to be made in relation to the above issues.*

[The Government is asked to reply in full to the present comments in 2020.]

## Egypt

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

The Committee takes note of the observations made by the International Trade Union Confederation (ITUC) received on 1 September 2019 in relation to the application of the Convention in law and in practice.

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards in June 2019 concerning the application of the Convention. The Conference Committee noted that despite the adoption of the Trade Union Law and Ministerial Decree No. 35, a number of long-standing discrepancies between the national legislation and the provisions of the Convention continued to persist. The Conference Committee expressed concern over the persistence of restrictions on the right of workers to join and establish trade union organizations, federations and confederations of their own choosing and ongoing government interference in the trade union elections and activities. The Committee observes that the Conference Committee called upon the Government to: (i) ensure that there are no obstacles to the registration of trade unions, in law and practice, in conformity with the Convention; (ii) act expeditiously to process pending applications for trade union registration; (iii) ensure that all trade unions are able to exercise their activities and elect their officers in full freedom, in law and in practice, in accordance with the Convention. It further called upon the Government (iv) to amend the Trade Union Law to ensure that: the level of minimum membership required at the enterprise level, as well as for those forming general unions and confederations, does not impede the right of workers to form and join free and independent trade union organizations of their own choosing; and that workers are not penalized with imprisonment for exercising their rights under the Convention; and (v) to transmit copies of the draft Labour Code to the Committee of Experts before its session in November 2019. Finally, the Conference Committee invited the Government to accept ILO technical assistance to assist in implementing these recommendations and urged it to submit a report on progress made to the Committee of Experts before its November 2019 session. The Committee further notes that following the adoption of the conclusions, the Government indicated that it was working on solving the problems of the trade union organizations that wish to regulate their status by providing them technical support and has requested the participation of the ILO Office in Cairo in this process.

*Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing. Application in law and in practice.* The Committee recalls from its previous comments the Government's indication that the philosophy of the new Trade Union Law was based on the consolidation of the principle of free establishment of trade union organizations and federations, as well as the guarantee of their democracy and stability. The Committee had observed, however, numerous concerns expressed about the application of the law and had emphasized that, in the context of a long-entrenched system of legislatively imposed trade union monopoly, it was critical that all trade unions be given an equal chance to be registered under the new Trade Union Law. The Committee urged the Government to ensure that all trade unions existing at the time of the adoption of the Law on trade union organizations are able to function freely and carry out their activities without interference pending their regularization under the Law and to ensure that workers wishing to change their trade union membership may do so without detriment to their acquired rights relating to contributory provident funds, which otherwise might hinder the workers' freedom to choose the organization with which they wish to affiliate.

The Committee takes due note of the Government's indication that the Minister of Manpower created a legal and technical committee reporting directly to him mandated with examining all problems facing union organizations that had failed to regularize and offer technical support required. In this respect, the Minister of Manpower held a meeting with affected organizations on 14 July 2019 and decided that each organization unable to regularize would submit an individual report on their status and the supporting documents for their registration. By the end of August 2019, 13 union organizations had submitted documents. The ministerial committee examined the submissions and informed the organizations of some legal and procedural restrictions on 27 August 2019. The Government adds that 11 new union committees (only ten different names were provided by the Government: Quality assurance in Giza, Water resources in Assiout, Transport in Al-Sharkey, Farag Allah Company, Pasta company in El Sadat, Transport in El Beheira, Transport in El Menoufeya, Transport in El Fayoum, Construction in Qena, Occupational Committee for street vendors in Qena) were created during the months of July and August and one new general union was formed bringing the number of such unions established according to the 2011 Ministerial Declaration on Freedom of Association to five general unions including two that are not members of a higher union federation. The Committee further notes the Government's communication of 19 November indicating that, following an ILO multidisciplinary mission of the same month, the ministerial committee reviewed registration papers submitted by 11 new trade union committees and was finalizing the procedures so that they can receive certificates of legal personality. The Government refers in particular to: Trade Union Committees of Workers in Real Estate Tax in Kafr Al Sheikh, Giza and Beni Sewaif; Trade Union Committee of Workers in the Water and Sanitation Company in Qena; Trade Union Committee of Sanitation Workers in Gharbeya; Trade Union Committee of Representatives of associations and private institutions; Trade Union Committee of Workers in Hunting in Giza; Trade Union Committee of Workers in

Transportation and Transport in Giza; Trade Union Committee of Workers in Cement in Suez; Trade Union Committee for Workers in Transportation and Transport in Damietta; Trade Union Committee for Workers in Telecommunications in Qena.

In light of the numerous communications it had received last year concerning obstacles to trade union registration in practice, the Committee notes with *interest* the efforts made by the Government to engage with unions requesting registration and to assist them in the completion of this process so that they may be registered without further delay. ***Given the challenges to registration that were described by these organizations, the Committee expresses the firm expectation that the Government will review the documents which they had originally submitted and not require renewal of all processes, general assemblies, etc., after the considerable delay that these organizations have already experienced and which would amount to compelling them to engage in a re-registration process. It trusts that all registration requests will now be handled in accordance with the 2019 amendments and that these organizations will receive the necessary certificates of legal personality without delay so that they will be able to exercise their activities fully, in accordance with the Convention. The Committee welcomes in this regard the Government's commitment to a technical cooperation programme with the ILO to further accompany this process, which it trusts will engage with the social partners and provide training, where necessary to workers on the procedures for registration. It expresses the firm expectation that this programme will create the space for full freedom of association in Egypt to the benefit of all parties.***

***Minimum membership requirements.*** In its previous comment in 2018, the Committee requested the Government to lower the minimum membership requirement for forming a trade union at enterprise level, set at 150 workers in Trade Union Law No. 213, so as to ensure the rights of workers to form and join the organization of their own choosing. It further requested the lowering of the minimum membership requirement for forming general unions and confederations (set at 15 enterprise unions and 20,000 workers and ten general trade unions and 200,000 workers, respectively). The Committee notes with *interest* the adoption on 5 August 2019 of Law No. 142 lowering the minimum membership requirement to 50 workers for the formation of a trade union committee at enterprise level, to ten union committees and 15,000 members for a general union and to seven general unions and 150,000 members for the establishment of a trade union federation (that is, a confederation). ***The Committee expresses the firm expectation that these changes, coupled with a robust technical cooperation programme, will facilitate the formation of trade unions at all levels and contribute to harmonious industrial relations in the country. Recalling that the minimum membership requirement should be fixed in a reasonable manner so that the establishment of organizations is not hindered in respect of all levels of formation (see the 2012 General Survey on the fundamental Conventions, paragraph 89), the Committee requests the Government to continue to review these requirements with the social partners concerned so as to ensure that all workers are able to form and join the organizations of their own choosing and that their organizations can establish and join federations and confederations freely.***

As regards the effective application of the Trade Union Law, the Committee notes from the Government's report that the administrative agency must produce a report on the submission of registration documents and submit a copy to the representative of the union organization, along with official letters for the opening of a bank account, for the approval of the stamps and seals and for the publication of the union statutes. Under section 19 of the Trade Union Law, moreover, the competent administrative agency must inform the legal representative of the union organization by letter within 30 days of the date of filing if it finds the documents are invalid or incomplete. ***The Committee requests the Government to continue to provide detailed information on the number of trade union registration applications received, the number of registrations granted, the reasons for any refusals to grant, and the average time taken from filing to registration.***

Finally, the Committee notes with *interest* the Government's reply to its previous comments that there is no ban on workers to join more than one organization in the case of having multiple professions – regardless of the level of the union organization according to the professional union classification.

***Article 3. Right of workers' organizations to organize their administration without interference and to enjoy the benefits of international affiliation.*** In its previous comments, the Committee noted with regret that the Trade Union Law penalized various contraventions with imprisonment and requested the Government to keep these provisions under review. The Committee notes with *interest* that Law No. 142 has amended sections 67, 68 and 76 so as to eliminate all references to imprisonment and establishing uniquely the payment of a fine. ***Observing that some of these sections, such as section 67, concern contraventions that are broadly worded and could give rise to penalties for simply being in the act of forming an organization and engaging in activity prior to registration, the Committee requests the Government to keep the application of these provisions under review and to inform the Committee of any penalties imposed and the reasons for such penalties.***

The Committee also observes that the Trade Union Law sets out certain specific conditions for trade union office (section 41.1 and 41.4) which it considers interfere with the right of workers' organizations to elect their representatives in full freedom. The Committee has considered in this regard that requirements that candidates for trade union should be able to read and write is incompatible with the Convention and (see the 2012 General Survey on the fundamental Conventions, paragraph 104), as is the requirement for a basic education degree, and further considers that matters related to military service should be addressed in other pieces of legislation rather than relating to trade union office. ***The Committee requests the Government to review these requirements with the social partners concerned with a view to bringing them into conformity with the Convention.***

*Labour Code.* The Committee takes note of the draft Labour Code recently transmitted by the Government and which is currently being debated in the Manpower Committee of the Parliament. The Committee notes the Government's reference to the Committee's previous comments that the right to strike is not absolute and may be limited or even prohibited. The Government refers in particular to public servants exercising authority in the name of the State, essential services and acute national crisis. It adds that a strike is not an end in itself but a means to achieve the legitimate objectives of workers. Determining the duration of a strike is a manner of regulation and not a restriction, which is evidenced by the fact that the Code does not establish a maximum period. The strike may be extended or renewed for similar periods thereafter thus protecting the objective behind the strike as a legitimate means of pressure. As regards the prohibition of industrial action in vital or strategic enterprises where stoppage of work would compromise national security or basic services to be designated in a decree by the Prime Minister (section 203), the Government indicates that this is not an absolute ban but will be decided by the Prime Minister with rules and regulations governing the matter. As regards arbitration, the Government states that all provisions now refer only to arbitration that has been agreed by both parties. The Committee welcomes the Government's statement that all provisions of the draft Labour Code will continue to be reviewed and that the Committee's comments will be presented to the Parliament. ***In this regard, the Committee expresses the firm expectation that the Government will ensure that the Labour Code, once adopted, fully assures respect for the right to strike and recalls that restrictions to this right should be limited to public servants exercising authority in the name of the State, essential services in the strict sense of the term and situations of acute national crisis.***

The Committee further draws the Government's attention to the need to eliminate any mention of a specific workers' or employers' organization so as to avoid favouring a monopoly situation in the law. In this regard, while noting that most of the tripartite bodies envisaged in the draft Labour Code refer to representation of the most representative workers' and employers' organizations, the Committee observes that section 78 of the draft names the Egyptian Trade Union Federation as the representative of workers on the wages commissions. ***The Committee urges the Government to ensure throughout the Code that the term "most representative organization(s)" be substituted in any case of reference to a specific organization. The Committee requests the Government to provide information on any further developments in relation to the draft Code and to transmit a copy as soon as it has been adopted, as well as relevant regulations that may have been issued thereunder.***

As regards the work on a Law regulating domestic work, the Committee notes the Government's indication that it is still preparing the new draft in coordination with competent agencies, such as the National Council for Women, the National Coordinating Committee on Combatting Illegal Migration (NCCIMP), the National Council for Motherhood and Childhood, workers' organizations, employers' organizations, owners of private houses, and civil society organizations. The Government states that it will provide the draft law upon finalization. In the meantime, it indicates that the provisions of the Civil Code, particularly as regards employment contracts, and those of the Trade Union Law apply to domestic workers so that they may establish trade unions to defend their interests. Moreover, the Government adopted a model employment contract for domestic workers and has held awareness-raising sessions in this regard. ***The Committee requests the Government to provide a copy of the model employment contract, and of the law regulating domestic work as soon as it is adopted.***

*[The Government is asked to reply in full to the present comments in 2020.]*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1954)**

*Articles 1, 2 and 3 of the Convention. Adequate protection against anti-union discrimination and interference.* With reference to its comments under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee notes that Trade Union Law No. 137 prohibits generally in section 3 any discrimination for the formation of a trade union or the exercise of trade union activity. It further notes that the draft Labour Code currently before the Manpower Committee of Parliament prohibits under section 138 dismissal on the basis of trade union membership or activity. In the draft sent by the Government, however, any section on sanctions, penalties or remedies was missing. ***Recalling that Article 1 of the Convention calls for protection against anti-union discrimination not only in respect of dismissal but also as regards any act that would prejudice workers in their employment, including at the time of hiring, and other forms of prejudice such as demotion, transfer, benefits, etc., and that Article 2 provides that workers' and employers' organizations shall be protected against acts of interference by each other, the Committee requests the Government to indicate the legislative provision which ensures full protection in respect of such acts and the sanctions, penalties and remedies provided.***

*Article 4. Promotion of collective bargaining.* As regards the comments it has been making for several years on Labour Code No. 12 of 2003, the Committee notes the Government's indication that the draft has eliminated any references to the role of higher-level organizations in the negotiation process of lower-level organizations. It further notes the Government's explanation that the draft law provides for optional arbitration based on the will and desire of both parties without any coercion. ***The Committee requests the Government to provide information on any further developments in the draft Code and to supply a copy as soon as it has been adopted.***

*Articles 4 and 6. Collective bargaining for public servants not engaged in the administration of the State.* As regards the exclusion from the draft Labour Code, and thus of the right to collective bargaining, of civil servants of state

agencies, including local government units, the Committee notes the Government's indication that Act No. 81 on the civil service was adopted on 1 November 2016 and Executive Regulations were issued by Decree from the Prime Minister No. 126/2017. The Committee notes that Act No. 81 establishes, on the one hand, a Civil Service Council which has an advisory role on various issues related to the Civil Service and, on the other hand, for each public department, human resources committees. The Committee also notes that, under section 3 of Act No. 81 and section 4 of its Executive Regulations, the Civil Service Council and the human resources committees, composed mainly of representatives of the administration, include a trade union representative whose appointment is mainly the responsibility of the Egyptian Trade Union Federation. At the same time, the Committee notes that the Act and its Executive Regulations make no mention of other ways of representing public service employees and of mechanisms enabling them to collectively negotiate their working and employment conditions.

The Committee recalls in this respect that, under *Articles 4 and 6* of the Convention, civil servants not engaged in the administration of the State must be able to collectively negotiate their working and employment conditions and that mere consultation mechanisms are not sufficient in this respect. The Committee also points out that, in accordance with the principle of free and voluntary collective bargaining recognized by the Convention, workers must be able to choose the trade union organizations that represent them. ***The Committee therefore requests the Government to indicate whether there are, in law or in practice, mechanisms enabling the civil servants not engaged in the administration of the State to collectively negotiate their employment conditions and to specify how the organizations representing them are to be designated.***

## El Salvador

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2006)***

The Committee notes the Government's replies to the previous observations of the National Business Association (ANEP) and International Organisation of Employers (IOE), as well as of the National Confederation of Salvadoran Workers (CNTS).

*Trade union rights and civil liberties. Murder of a trade unionist.* With regard to the murder of Mr Victoriano Abel Vega in 2010, the Committee notes that the Government emphasizes the need to accelerate the investigation and punish the perpetrators, and it details the steps it is taking periodically to request updated reports from the Attorney-General of the Republic, with the most solid line of investigation being that the murder was committed mistakenly by a group of gang members. The Committee notes that the details provided by the Government on the investigation process have already been examined by the Committee on Freedom of Association and that recent updates show that the case is still under investigation. The Committee therefore refers once again to the recommendations of the Committee on Freedom of Association in Case No. 2923 (388th Report, March 2019).

*Article 3. Freedom and autonomy of workers' and employers' organizations to appoint their representatives. Reactivation of the Higher Labour Council.* The Committee notes with **interest** that, according to the Government, the Higher Labour Council, after having been inactive since 2013, was set up as of 16 September 2019. In this connection, the Committee refers to its comments on the application of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144).

*Articles 2 and 3. Legislative reforms pending.* For several years, the Committee has been requesting the Government to take the necessary measures to amend the following legislative and constitutional provisions:

- articles 219 and 236 of the Constitution of the Republic and section 73 of the Civil Service Act (LSC), which exclude certain categories of public servants from the right to organize (members of the judiciary, public servants who exercise decision-making authority or are in managerial positions, employees with duties of a highly confidential nature, private secretaries of high-ranking officials, diplomatic representatives, assistants of the Public Prosecutor, or auxiliary agents, assistant prosecutors, labour prosecutors and delegates);
- section 204 of the Labour Code, which prohibits membership of more than one trade union, so that workers who have more than one job in different occupations or sectors are able to join trade unions;
- sections 211 and 212 of the Labour Code (and the corresponding provision of the LSC on unions of public service employees), which establish, respectively, the requirement of a minimum of 35 members to establish a workers' union and a minimum of seven employers to establish an employers' organization, so that these requirements do not hinder the establishment of workers' and employers' organizations in full freedom;
- section 219 of the Labour Code, which provides that, in the process of registering the union, the employer shall certify that the founding members are employees, so as to ensure that the list of the applicant union's members is not communicated to the employer;
- section 248 of the Labour Code, by eliminating the waiting period of six months required for a new attempt to establish a trade union when its registration has been denied;

- article 47(4) of the Constitution of the Republic, section 225 of the Labour Code and section 90 of the LSC, which establish the requirement to have attained the age of majority and to be a national of El Salvador by birth in order to hold office on the executive committee of a union, which are excessive restrictions of the right of the workers freely to elect their representatives;
- article 221 of the Constitution of the Republic so as to limit the prohibition of the right to strike in the public service to officials exercising authority in the name of the State and those who perform their duties in essential services in the strict sense of the term (while recalling that it is also possible to restrict the exercise of the right to strike through the establishment of minimum services in public services of fundamental importance);
- section 529 of the Labour Code so that when a decision is taken to call a strike, only the votes cast are taken into account, and also that the principle is recognized of the freedom to work of non-strikers and the right of employers and managerial staff to enter the premises of the enterprise or establishment, even where the strike has been decided upon by an absolute majority of the workers; and
- section 553(f) of the Labour Code, which provides that strikes shall be declared unlawful “where inspection shows that the striking workers do not constitute at least 51 per cent of the personnel of the enterprise or establishment,” which is inconsistent with section 529(3) of the Labour Code and which restricts excessively the right of workers’ organizations to organize their activities in full freedom and to formulate their programmes.

In this respect, the Committee notes that the Government duly notes the above-mentioned recommendations, indicates that consideration could not be given to proposals for reform owing to the inactivity of the Higher Labour Council over six years, and states that, with the reactivation of the latter, these, and other proposals for labour legislation reform, will be submitted to it. The Committee duly notes that, as specified by the Government, ILO technical assistance has been requested in this regard. *Hoping to be able to note progress in the near future on these long-pending legislative reform matters, the Committee urges the Government, following tripartite consultation, to take the necessary measures to ensure conformity of the above provisions with the Convention.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2006)**

The Committee notes the Government’s replies to the previous observations of the International Trade Union Confederation (ITUC).

*Article 1 of the Convention. Adequate protection against anti-union discrimination.* In its previous comments, the Committee emphasized the importance of reforming penalties against anti-union discrimination in order to ensure their dissuasive effect. The Committee notes that the Government: (i) states that the fines that can be imposed for violations of labour standards (such as anti-union discrimination) are very low (up to US\$57.14 per violation), even compared with the penalty system on risk prevention in the workplace (which ranges from 4 to 28 minimum wages); and (ii) reports that, although proposals for reforms to increase the amount of fines related to labour standards have been presented since 2014, the Legislative Assembly has not yet issued an opinion. *Regretting the lack of progress in this regard and reiterating the importance of the fines imposed in the event of anti-union discrimination being of a dissuasive nature, the Committee requests the Government, following tripartite consultation, to take effective measures to establish a dissuasive penalty system, and firmly hopes to be able to note progress in the near future.*

Furthermore, in its previous observation, the Committee highlighted that the fact that the staff of the municipal authorities is not covered by the Labour Code does not free the Government of its responsibility to guarantee this category of workers adequate protection against anti-union discrimination. The Committee notes that the Government once again provides information on the existing legal framework, indicating that currently the staff of the municipal authorities can submit complaints to the Counsel General’s Office and Office of the Human Rights Advocate and Attorney General’s Office; reiterating that Ministry of Labour and Social Welfare should refrain from carrying out inspections among the municipal authorities (with the exception of inspections relating to the General Act concerning occupational hazard prevention); and noting the need to amend the applicable legislation. In this respect, the Committee notes that the Committee on Freedom of Association requested the Government, in consultation with the social partners from the sector, to take the necessary steps, including legislative measures if necessary, to ensure that the workers in the municipal authorities have access to adequate protection mechanisms against acts of anti-union discrimination (see case No. 3284, report No. 389, in which the Committee on Freedom of Association referred the legislative aspects of the case to the present Committee). *Recalling its previous comments within the framework of the application of the present Convention and the Labour Relations (Public Service) Convention, 1978 (No. 151) on the need to introduce legislative reforms to ensure that all public workers covered by those Conventions enjoy adequate protection against anti-union discrimination, the Committee requests the Government to, in consultation with the social partners from the sector, revise the legal framework to ensure that the workers in the municipal authorities have access to adequate protection against acts of anti-union discrimination, and to keep it informed of any developments in this regard.*

*Articles 2, 4 and 6. Legislative issues pending for several years.* The Committee recalls that for several years it has been making comments on certain provisions of domestic law with the aim of bringing them into conformity with Articles 2, 4 and 6 of the Convention:

- *acts of interference*: section 205 of the Labour Code and 247 of the Penal Code so that the legislation explicitly prohibits all acts of interference under the terms prescribed by *Article 2* of the Convention;
- *requirements to be able to negotiate a collective agreement*: sections 270 and 271 of the Labour Code and sections 106 and 123 of the Civil Service Act so that, when no union covers more than 50 per cent of the workers, the right to collective bargaining is explicitly granted to all unions, at least on behalf of their own members;
- *revision of collective agreements*: section 276(3) of the Labour Code to ensure that the renegotiation of collective agreements while they are still in force is only possible at the request of both parties concerned;
- *judicial remedies in the event of the denial of the registration of a collective agreement*: section 279 of the Labour Code to specify that judicial remedies are applicable against decisions of the Director-General not to register a collective agreement;
- *approval of collective agreements concluded with a public institution*: section 287 of the Labour Code and 119 of the Civil Service Act, which regulate collective agreements concluded with a public institution, to replace the requirement for prior ministerial approval by a provision envisaging the participation of the financial authorities during the process of collective bargaining, and not when the collective agreement has already been concluded;
- *exclusion of certain public employees*: section 4(1) of the Civil Service Act so that all public officials who are not engaged in the administration of the State enjoy the guarantees provided for in the Convention.

The Committee notes the Government's indication that it plans to address these recommendations in the Higher Labour Council, which has recently been reactivated, and requests the technical assistance of the Office in this regard. ***Hoping to be able to note progress in the near future and noting that the Government requests the technical assistance of the Office, the Committee urges the Government to, with prior tripartite consultation, take the necessary steps to ensure conformity of the above provisions with the Convention.***

*Application of the Convention in practice.* The Committee notes the information provided by the Government on the state of collective bargaining in the country, indicating that: (i) there are a total of 175 registered collective agreements, 133 of which are in force; and (ii) a total of 81,487 workers are covered by collective bargaining. ***Taking due note of this information, the Committee requests the Government to continue providing information on the number of collective agreements signed and in force, the sectors concerned (detailing the agreements of the public sector and of the education system) and the number of workers covered by those agreements, as well as on any measures adopted to promote the full development and use of collective agreements under the Convention.***

## 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 2020, 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 again recalls that it has been asking the Government for a number of years to: (i) amend section 5 of Act No. 12/1992, which provides that employees' organizations may be occupational or sectoral – so that workers may, if they so desire, establish enterprise trade unions; (ii) amend section 10 of Act No. 12/1992, which provides that for an occupational association to obtain legal personality it must, inter alia, have a minimum of 50 employees – so as to reduce the number of workers required to a reasonable level; (iii) confirm that, as a result of a revision of the Fundamental Act in 1995 (Act No. 1 of 1995), the right to strike is recognized in public utilities and is exercised under the conditions laid down by law; (iv) provide information on the services deemed to be essential, and on how the minimum services to be ensured are determined, as provided for in section 37 of Act No. 12/1992; and (v) state whether public servants who do not exercise authority in the name of the State enjoy the right to strike (section 58 of the Fundamental Act).

***The Committee again urges the Government to take the necessary steps to amend the legislation in order to bring it into full conformity with the provisions of the Convention and to send information in its next report on any measures taken or contemplated in this respect. The Committee expresses the strong hope that the Government will take all possible steps without delay to resume a constructive dialogue with the ILO.***

Furthermore, the Committee had noted the comments of the International Trade Union Confederation (ITUC) on the application of the Convention and the persistent refusal to register various trade unions, namely the Trade Union of Workers of Equatorial Guinea (UST), the Independent Services Union (SIS), the Teachers' Trade Union Association (ASD) and the Agricultural Workers' Organization (OTC). The Committee recalls once again that the discretionary power of the competent authority to grant or reject a registration request is tantamount to the requirement for previous authorization, which is not compatible with *Article 2 of the Convention* (see the 1994 General Survey on freedom of association and collective bargaining, paragraph 74). ***Under these conditions, the Committee once again urges the Government to register without delay those trade unions which have fulfilled the legal requirements and to provide information in this respect in its next report.***

***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 2020, 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 4 of the Convention. Collective bargaining.* The Committee noted the previous comments by the International Trade Union Confederation (ITUC), on the repeated refusal to recognize a number of trade unions, namely the Workers' Union of Equatorial Guinea (UST), the Independent Service Union (SIS), the Teachers' Trade Union Association (ASD) and the Rural Workers' Organization (OTC), and the lack of a legal framework for the development of collective bargaining. The Committee again stresses that the existence of trade unions established freely by workers is a prerequisite for the application of the Convention. **The Committee urges the Government once again to adopt the necessary measures without delay to create appropriate conditions for the establishment of trade unions that are able to engage in collective bargaining with a view to regulating conditions of employment.**

*Article 6. Right of public servants not engaged in the administration of the State to engage in collective bargaining.* The Committee notes that, according to ITUC's comments, the right of workers in the public administration to establish trade unions has still not been recognized in law, despite the fact that section 6 of the Act on trade unions and collective labour relations, No. 12/1992, provides that the right to organize of employees in the public administration shall be regulated by a special law. The Committee notes that the ITUC also indicates that the legal framework for collective bargaining is deficient and ambiguous. **The Committee urges the Government to indicate whether a special law has been adopted and whether it establishes the right to organize and to collective bargaining of workers in the public administration, and asks it to send detailed information on the application of the Convention to public servants not engaged in the administration of the State. The Committee reminds the Government that it may seek technical assistance on this matter from the Office, and expresses the firm hope that it will take without delay all measures within its reach to resume constructive dialogue with the ILO.**

*Application of the Convention in practice.* **The Committee asks the Government to send statistics of the number of employers' and workers' organizations, the number of collective agreements concluded with these organizations and the number of workers and the sectors covered.**

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

## Eritrea

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

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

*Civil liberties.* In its previous comments, the Committee requested the Government to provide information on how it ensures the rights of trade unions to organize their administration and activities and to hold public meetings and demonstrations in practice. In this respect, the Government reiterates earlier statements regarding provisions available under the Labour Proclamation of 2001, and indicates that in March 2017, the National Confederation of Eritrean Workers (NCEW) held its seventh congress and elected its representatives in full freedom. Furthermore, a basic workers' association was recently established in Bisha Mining Share Company, where the parties were engaged in a process of collective bargaining. The Government indicates that the latter development demonstrates that the NCEW has extended its coverage to new sectors. While taking note of this information, the Committee **regrets** that the Government provides no information on any measures taken in the last several years to ensure protection for the exercise of the right to hold demonstrations and public meetings in law and in practice. **Recalling that the right of trade unions to hold public meetings and demonstrations is an essential aspect of freedom of association, the Committee reiterates its request.**

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Compulsory national service.* The Committee notes that pursuant to sections 19 and 30 of the National Service Proclamation (No. 82/1995), those performing work within the framework of national service are subject to martial law and regulations and that section 3 of the Labour Proclamation excludes members of the military, police and security forces from the scope of the labour law. The Committee further notes the discussions that took place in the Conference Committee for the Application of Standards (CAS) concerning the application of the Forced Labour Convention, 1930 (No. 29), and its 2015 and 2018 conclusions which make reference to large-scale and systematic practice of imposing compulsory labour on the population for an indefinite period of time within the framework of programmes related to the obligation of national service. This practice has also been reported extensively by the Commission of Inquiry on Human Rights in Eritrea established by the United Nations Human Rights Council, as well as the Special Rapporteur on the Situation of Human Rights in Eritrea (Special Rapporteur) appointed by the same Council. The Committee notes with **deep concern** that large numbers of Eritrean nationals have been denied the right to organize for indefinite periods of their active life while they were forced to perform work as part of their obligation of compulsory national service. The Committee recalls that the exception in *Article 9(1)* of the Convention is justified on the basis of the responsibility of the police, security and armed forces for the external and internal security of the State. This exception must be construed in a restrictive manner, so as to apply only to purely military and policing functions and not to the whole active population mobilized for work in non-military areas as diverse as agriculture, construction, civil administration and education for indefinite periods of time under martial law that denies them the right to organize. **In view of the above considerations, and noting the end of "no war no peace situation" that had lasted since the 1998–2000 border war with Ethiopia and the formal restoration of relations between the two countries in July 2018, the Committee urges the Government to end the general mobilization of the population for indefinite periods of time under martial law and to revoke or amend the National Service Proclamation accordingly, so as to ensure that Eritrean nationals are not denied the right to organize beyond the legally restricted period of military service, during which they would perform work of purely military character.**

*Civil Servants.* The Committee recalls that in its 2014 observation, it had observed with concern that the Government had been referring to the imminent adoption of the Civil Servants' Proclamation for the last 12 years, and had urged the Government to take all the necessary measures to expedite the adoption process of the Proclamation so as to grant without further delay the right to organize to all civil servants in accordance with the Convention, and that it repeated the same observation with concern in 2016 and 2017. The Committee notes with **deep concern** that the Government once again indicates that the drafting process of this Act is still at its final stage for approval. In this respect, the Committee notes that in her latest report, the Special Rapporteur informed the UN Human Rights Council that there was still no parliament in Eritrea where laws could be discussed and questions of national importance debated (A/HRC/38/50 of 25 June 2018, paragraph 28). The Committee is bound to note that the institutional standstill described in the Special Rapporteur's report does not favour the imminent adoption of new legislation. **Recalling that civil servants,**

*like all other workers with the only exception of armed forces and the police, should enjoy the right to establish and join organizations of their own choosing, the Committee urges the Government to take all the necessary measures to ensure that the adoption process of the Civil Servants' Code is concluded and the right to organize is guaranteed to all civil servants without further delay. 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 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: 2000)**

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

*Legislative issues.* The Committee recalls that since its first examination of the application of the Convention in Eritrea in 2002 it had focused on a number of legislative issues and requested the Government to amend the legislation or adopt additional laws and regulations in order to address the following matters:

- *Articles 1 and 2 of the Convention. Protection against anti-union discrimination and acts of interference.* The Committee had noted that the 2001 Labour Proclamation does not provide for an adequate protection against anti-union discrimination and acts of interference in terms of period of protection, the persons protected and the sanctions and remedies provided in law, and had requested the Government to amend the Proclamation so as to strengthen the protection against anti-union discrimination and acts of interference.
- *Articles 1, 2 and 4. Domestic workers.* The Committee had noted that the Labour Proclamation does not explicitly grant the rights set out in the Convention to domestic workers as section 40 thereof entitles the Minister to determine by regulation the provisions of the Proclamation that apply to these workers. The Committee had expressed the hope that the guarantees enshrined in the Convention will soon be explicitly afforded to domestic workers by way of a regulation.
- *Article 6. Public sector.* The Committee had noted that the civil servants in the Central Personnel Administration who are not engaged in the administration of the State are excluded from the scope of the Labour Proclamation and had requested the Government to explicitly recognize their rights to protection against anti-union discrimination and acts of interference, as well as their right to negotiate collectively their conditions of employment in the new Civil Service Proclamation.

The Committee notes that the Government: (i) recognizes that legislative measures should be taken as requested by the Committee in order to ensure adequate protection against anti-union discrimination and acts of interference but that the amendment process has not yet been finalized and the Ministry of Labour and Human Welfare intends to conduct a tripartite workshop aiming at finalizing the drafting process; (ii) with regard to domestic workers, indicates that giving effect to section 40 of the Labour Proclamation requires sufficient time and skill, and the new Civil Code contains certain provisions linked with the rights of domestic workers servants under the Convention, without however providing the text of the relevant provisions of the new Civil Code; and (iii) states that the draft Public Service Code has not been enacted yet either. The Committee notes that the Government replies concerning the legislative issues highlighted in the Committee's comments reveal institutional shortcomings that have hindered the conclusion of drafting and enactment process of new legislation for many years. The Committee notes in this regard that the United Nations Commission of Inquiry on Human Rights in Eritrea had found that "since there is no legislation that regulates law-making procedures, codes, decrees and domestic legislation is prepared and adopted in the absence of a clear, transparent, consultative and inclusive process. Nobody really knows the procedure leading to the enactment of legislation or the author of a specific decree" (A/HRC/29/CRP.1, 5 June 2015, paragraph 299). The Committee further notes that in her latest report, the Special Rapporteur on the Situation of Human Rights in Eritrea, appointed by the United Nations Human Rights Council, informs the Council that there is still no parliament in Eritrea where laws could be discussed and questions of national importance debated (A/HRC/38/50, 25 June 2018, paragraph 28). The Committee notes that the institutional standstill described in the Special Rapporteur's report does not favour the imminent adoption of new legislation. ***The Committee therefore urges the Government to take all the necessary measures so that the processes of drafting and enacting new legislation with a view to ensuring the conformity of Eritrean law with the Convention can be successfully brought to conclusion. The Committee further encourages the Government to seek the technical assistance of the Office with a specific focus on the issues raised in this observation.***

*Articles 4, 5 and 6. Promotion of collective bargaining. Compulsory national service.* The Committee notes that pursuant to articles 19 and 30 of the National Service Proclamation (No. 82/1995), the Eritrean nationals performing work within the framework of national service are subject to martial law and regulations and that article 3 of the Labour Proclamation of Eritrea excludes members of the military, police and security forces from the scope of labour law. The Committee notes that it stems from the conjunction of the different provisions mentioned that the persons performing work within the national service are not covered by the Labour Proclamation provisions related to collective bargaining. The Committee further notes the discussions that took place in the International Labour Conference Committee for the Application of Standards (CAS) concerning the application of Forced Labour Convention, 1930 (No. 29), and the conclusions of the CAS in this regard in June 2015 and 2018 respectively, where reference was made to a systematic and large-scale practice of requiring Eritrean citizens to perform work for an indefinite period of time within the framework of programmes related to the obligation of national service involving numerous civilian activities such as construction and agriculture. The Committee recalls that the only restrictions to the scope of application of the Convention refer to the armed forces and the police as well as to the public servants engaged in the administration of the State (*Articles 5 and 6 of the Convention*). The Committee further highlights that the exception in *Article 5* of the Convention, like the one embodied in *Article 9* of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), is justified on the basis of the responsibility of the police and armed forces for the external and internal security of the State. This exception must therefore be restrictively interpreted, applying only to purely military and policing functions. As a result, persons engaged, under martial law, in activities such as agriculture, construction, civil administration and education that do not fall within military or policing activities or the administration of the State should be able to bargain collectively their conditions of employment. In view of the above legal and factual considerations, the Committee notes with ***concern*** that large numbers of Eritrean nationals are being denied the right to collective bargaining for indefinite periods of their active life while they are performing civilian activities that fall under the scope of the Convention as part of their obligation of compulsory national service. ***Noting the end of the "no war no peace situation" enduring since the 1998–2000 border war with Ethiopia and the formal restoration of relations between the two countries in July 2018, the Committee urges the Government to take the necessary measures so as 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.***

*Promotion of collective bargaining in practice. 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.*

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

## Ethiopia

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)**

The Committee notes the observations submitted by the Education International (EI), received on 20 September 2019, which refer to the denial of registration of the National Teacher's Association (NTA).

The Committee notes the adoption of the Civil Society Organizations Proclamation No. 1113/2019, of 7 March 2019, and the Labour Proclamation No. 1156/2019, of 5 September 2019.

In its previous comments, the Committee had welcomed the Joint Statement on the Working Visit of the ILO Mission to Ethiopia, which was signed in May 2013 by the Minister of Labour and Social Affairs and the ILO as a significant step towards resolving long-standing issues in line with the provisions of the Convention.

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish organizations. Teachers.* In its previous comments, the Committee, encouraged by the Government's commitment in the Joint Statement to register the NTA, firmly expected that it would be promptly and unconditionally registered. The Committee notes with **regret** that the Government merely reiterates in its report the information that it had previously provided on this matter to this Committee and to the Committee on Freedom of Association (CFA) in Case No. 2516. The Committee notes that the EI in its observations states that the Ethiopian Ministry of Labour and Social Affairs has yet to respond to the requests of the NTA to be recognized as a trade union and that the NTA should be registered under the Civil Society Organizations Proclamation No. 1113/2019, which replaced the Charities and Societies Proclamation No. 621/2009. **Recalling that the right to official recognition through legal registration is an essential facet of the right to organize, as the first step that workers' or employers' organizations must take in order to be able to function efficiently and represent their members adequately, the Committee urges the Government to take the necessary measures to ensure the immediate registration of the NTA, so that teachers may fully exercise their right to form organizations of their own choosing for furthering and defending teachers' occupational interests. The Committee urges the Government to provide information on the progress made in this regard.**

#### **Articles 2, 3 and 4. Legislative matters**

*Civil Society Organizations Proclamation (No. 1113/2019).* In its previous comments, the Committee had noted with concern that the Charities and Societies Proclamation No. 621/2009 provided for an ongoing and close monitoring of the organizations established on its basis and gave governmental authorities great discretionary powers to interfere in the right to organize of workers and employers, in particular in the registration, internal administration and dissolution of the organizations falling within its scope. The Committee had therefore urged the Government to take the necessary measures to ensure that the Proclamation was not applicable to workers' and employers' organizations and that such organizations are guaranteed effective recognition through legislation, in full conformity with the Convention. The Committee notes that the Charities and Societies Proclamation has been replaced by the Civil Society Organizations Proclamation No. 1113/2019. The Committee further notes with **satisfaction** that the Civil Society Organizations Proclamation No. 1113/2019 addresses some of its previous outstanding comments by removing certain provisions of the Charities and Societies Proclamation that were not in conformity with the Convention, as follows:

- section 2(2) and (3) that established a distinction between the organizations which are required to register, on the basis of the nationality of their members and the amount of funds they received from foreign sources;
- section 76(1), pursuant to which the license of the organization had to be renewed every three years;
- sections 84(1) and (2), 85(1)(a), 86, 88(1) and 90 which granted excessive powers to the Charities and Societies Agency (currently the Civil Society Organizations Agency, according to sections 2(10) and 4 of the new Proclamation, hereafter referred as the Agency) to interfere in a range of administrative, financial and accounting issues concerning the internal functioning of the organizations;
- sections 92(2)(e) and 93, pursuant to which a violation by an organization of any provision of the Proclamation could lead to the cancellation of its licence and to its dissolution;
- section 102, which established heavy penalties for the violation of the provisions of the Proclamation.

On the other hand, the Committee observes that the following issues remain to be fully addressed:

- while the Committee welcomes the narrowing of grounds for registration refusal (former section 69(2) established that the previously responsible agency should refuse to register a charity or society where the proposed organization was "likely to be used for unlawful purposes or for purposes prejudicial to public peace, welfare or good order"), it observes that the new provision is still excessively broad. Section 59(b) of the Civil Society Organizations Proclamation

establishes that the Agency shall refuse to register an organization where it finds that the aim of the organization or the activities description under the organization's rules are contrary to law or public moral. In this respect, the Committee recalls that registration should be a simple formality and that public moral grounds are vague in nature and may give rise to decisions liable to impair the guarantees set out in the Convention. ***The Committee requests the Government to thus revise section 59(b) of the Civil Society Organizations Proclamation in consultation with the social partners. It requests the Government to provide information on any developments in this regard;***

- while the Committee notes the removal of section 104(4) of Charities and Societies Proclamation (which did not grant suspensive effects to appeals to registration or cancellation decisions), it observes that section 78(5) of the Civil Society Organizations Proclamation provides that members, founders or managers of the organization that is dissolved by the decision of the Board can appeal to the Federal High Court within 30 days following the decision, but is silent as to the effect of such appeal. The Committee recalls in this respect that suspension, withdrawal or cancellation of trade union registration constitute extreme forms of interference by the authorities in the activities of organizations and should, therefore, be accompanied by all the necessary guarantees, including the right to appeal to the Court which should have the effect of a stay of execution until a judicial ruling is handed down on the matter. ***The Committee requests the Government to indicate whether the appeal under section 78(5) of the Civil Society Organizations Proclamation has the effect of a stay of execution and, if not, to take the necessary measures to provide for such suspensive effect.***

***Civil servants and employees of the state administration.*** In its previous comments, the Committee, in view of the ongoing comprehensive civil service reform, firmly expected that the right to organize would be granted to all civil servants, including teachers in public schools and employees of the state administration, including care workers, judges, prosecutors, and managerial workers. The Committee notes that the Government reaffirms its readiness to address the matter and that, in full consultations with social partners, it will take all the necessary measures to grant civil servants and employees of the state administration the right to establish and join organizations of their own choosing. ***Noting the absence of concrete information concerning the civil service reform in the Government's report, the Committee reiterates its previous request and asks the Government to provide information on any developments in this regard.***

***Labour Proclamation No. 1156/2019.*** For several years, the Committee expressed its concern over multiple provisions of the Labour Proclamation No. 377/2003. The Committee notes that it has been replaced by the Labour Proclamation No. 1156/2019, which still raises the following issues of compatibility with the Convention:

- ***Workers covered.*** The Committee had previously noted that under section 3 of the Labour Proclamation No. 377/2003, the following categories of workers were excluded from its the scope of application: workers whose employment relations arise out of a contract concluded for the purpose of upbringing, treatment, care of, rehabilitation, education, training (other than apprenticeship); contract of personal service for non-profit-making purposes; managerial employees, as well as employees of state administration; judges and prosecutors, who were governed by special laws. The Committee had therefore requested the Government to take the necessary measures to ensure the right to organize to the abovementioned categories of workers, and had not received any indication that such rights were guaranteed through other laws. The Committee notes that section 3 of the Labour Proclamation No. 1156/2019 excludes from its scope of application the same abovementioned categories of workers. ***Recalling that the only possible exceptions from the application of the Convention pertain to the members of the police and armed forces, the Committee requests the Government to take the necessary measures to either amend section 3 of the new Labour Proclamation, or adopt other adequate legal provisions to recognize and guarantee the trade union rights identified in the Convention to the abovementioned categories of workers. The Committee requests the Government to provide information on any developments in this regard.***
- ***Essential services.*** The Committee had previously requested the Government to delete air transport and urban bus services from the list of essential services, previously established on section 136(2)(d) of the Labour Proclamation No. 377/2003. While the Committee welcomes the Government's indication that it held a tripartite consultation to minimize the list of undertakings and that, accordingly, the urban bus services have been excluded from the list, it observes that under section 137(2)(d) of the newly adopted Labour Proclamation the list of essential services in which strike action is prohibited includes urban light rail transport services. The Committee recalls that these services do not constitute essential services in the strict sense of the term that is services, the interruption of which may endanger the life, personal safety or health of the whole or part of the population. ***The Committee therefore requests the Government to take the necessary measures so that the abovementioned transport services are deleted from the list of essential services in section 137(2)(d) of the Labour Proclamation, and recalls that it may give consideration instead to the establishment of a system of minimum service in these services of public utility. It requests the Government to provide information on the measures taken or envisaged in this respect.***
- ***Quorum required for a strike ballot.*** The Committee had previously noted that under section 158(3) of the Labour Proclamation No. 377/2003, a strike vote should be taken by the majority of the workers concerned in a meeting in which at least two-thirds of the members of the trade union were present. The Committee had requested the Government to amend section 158(3) so as to lower the quorum required for a strike ballot. The Committee notes the

Government's indication that, having consulted the social partners, it did not envision a lack of conformity with the Convention, unless the Committee interpreted its articles otherwise. In this respect, the Committee recalls that if the legislation requires a vote by workers before a strike can be held, it should be ensured that account is taken only of the votes cast and that the required quorum and majority are fixed at a reasonable level, and considers that the quorum requirement of two-thirds could unduly hinder the possibility of calling a strike. *The Committee reiterates its previous recommendations and requests the Government to provide information on any developments in this regard.*

*The Committee requests the Government to take the necessary measures to bring the legislation and practice into full conformity with the Convention, and to provide information on the progress made thereon. In this respect, the Committee reminds the Government that it can avail itself of the technical assistance of the Office. The Committee further requests the Government once again to ensure that the provisions of the Labour Proclamation No. 1156/2019 which, as noted above, restrict the right of workers to organize their activities, are not invoked to cancel an organization's registration pursuant to section 121(1)(c) until they have been brought into conformity with the provisions of 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: 1963)

The Committee notes the observations of Education International (EI), received on 20 September 2019, concerning the collective bargaining rights of teachers' organizations, an issue that is being examined by the Committee in the present observation.

The Committee notes the adoption of the Labour Proclamation No. 1156/2019, of 5 September 2019.

In its previous comments, the Committee had welcomed the *Joint Statement on the Working Visit of the ILO Mission to Ethiopia*, which was signed in May 2013 by the Minister of Labour and Social Affairs, on behalf of the Government, and by the Director of the International Labour Standards Department, on behalf of the International Labour Organization, as it represented a significant step towards resolving long-standing issues in line with the provisions of the Convention. The Committee had noted the outcome of two ILO missions in the country (March 2015 and September 2016), highlighting the availability of the technical assistance of the Office to address the necessary reforms.

*Articles 1–4 of the Convention. Labour Proclamation No. 1156/2019.* In its previous comments, the Committee trusted that the necessary measures would be taken without delay, and in full consultation with the social partners, to amend the Labour Proclamation No. 377/2003 as follows:

- section 3, to ensure that the following categories of workers who were excluded from the scope of application of the Labour Proclamation enjoy the rights afforded by the Convention: (i) workers whose employment relations arise out of a contract concluded for the purpose of upbringing, treatment, care, rehabilitation, education, training (other than apprenticeship); (ii) managerial employees; and (iii) workers under contract of personal service for non-profit-making purposes;
- to include specific provisions coupled with effective and sufficiently dissuasive sanctions providing for the protection of organizations of employers and workers against acts of interference by each other's agents or members in their establishment, functioning or administration so as to give full effect to *Articles 2 and 3* of the Convention; and
- section 130(6), to ensure that it is up to the parties to decide on the moment when the collective agreement becomes inapplicable after the date of expiry.

The Committee notes the Government's indication that it has taken into account the comments made by the Committee and that, in full consultations with the social partners, necessary amendments were incorporated in the newly adopted Labour Proclamation No. 1156/2019 to ensure that the national labour legislation is in full conformity with the Convention. While the Committee welcomes the amendment of section 130(6) (section 131(6) of the new Labour Proclamation) allowing the negotiating parties to extend the validity of the collective agreement through a written agreement, it notes with *regret* that: (i) section 3 of the new Labour Proclamation maintains the exclusion of the above-mentioned categories of workers from its scope of application; and (ii) the new Labour Proclamation does not contain specific provisions coupled with effective and sufficiently dissuasive sanctions granting protection of organizations of employers and workers against acts of interference by each other's agents or members in their establishment, functioning or administration. *The Committee requests the Government to take the necessary measures to amend the Labour Proclamation No. 1156/2019, in full consultation with the social partners, so as to bring it into full conformity with the Convention. It requests in particular to ensure that: (i) through the amendment of section 3 of the Labour Proclamation or the adoption of other adequate legislative provisions to recognize and guarantee the rights enriched in the Convention to the above-mentioned categories of workers; and (ii) specific provisions prohibiting acts of anti-union interference are adopted and effective and dissuasive sanctions are established in this regard. The Committee requests the Government to provide information in its next report on any progress made in this respect.*

*Regulation concerning employment relations established by religious or charity organizations.* In its previous comments, the Committee had taken note of section 4 of the draft regulation concerning employment relations established

by religious or charity organizations, which provided that “religious or charity organizations employing persons for administrative or charity work shall not be obliged to enter into collective bargaining concerning salary increment, fringe benefits, bonus and similar other benefits which may incur financial expense upon the organization”. The Committee had recalled that collective bargaining should also be promoted in respect of these categories of workers and that no restrictions on the scope of bargaining should be imposed on workers by religious or charity institutions and had, therefore, requested the Government to amend section 4 of the draft regulation. The Committee had further noted the Government’s indication of the adoption, in March of 2015, of the Council of Ministers Regulation (No. 341/2015) on employment relations established by religious or charity organizations, which replaced the earlier draft regulation. The Committee notes with *regret* that the national authorities did not take the opportunity to amend the text as indicated, pointing out that section 5(1) of the Council of Ministers Regulation (No. 341/2015), attached to the Government’s report, merely reproduces the content of section 4 of the above-mentioned draft regulation. ***The Committee requests the Government to take the necessary measures to amend section 5(1) of the Council of Ministers Regulation (No. 341/2015) to ensure conformity with the Convention and to provide information on any progress achieved in this respect.***

*Article 6. Public servants not engaged in the administration of the State, including teachers in public schools.* In its previous comments, the Committee, noting the existence of a comprehensive civil service reform, had firmly expected that, while pursuing the reform, the right to bargain collectively would be granted to public servants not engaged in the administration of the State, including teachers in public schools. The Committee notes the Government’s indication that it takes due note of the Committee’s observations and that, in full consultation with the social partners, all the necessary measures will be taken. ***Noting the absence of concrete information concerning the civil service reform in the Government’s report, the Committee reiterates its request and asks the Government to provide information on any developments in this regard to ensure that public servants not engaged in the administration of the State, including teachers in public schools, enjoy the right to collective bargaining.***

***Recalling that, as envisaged on the occasion of the different ILO missions mentioned above, the Government may avail itself of the technical assistance of the Office, the Committee firmly expects that the Government will make every effort to take the necessary action so that the legislation and practice are brought into full conformity with the provisions of the Convention.***

## Fiji

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2002)**

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019 and of the Fiji Trades Union Congress (FTUC) received on 23 May and 13 November 2019, denouncing violations of civil liberties and lack of progress on the legislative reform. ***The Committee notes the Government’s general reply thereto, as well as to the 2017 and 2018 FTUC observations, and requests it to provide further details on the specific incidents of alleged violations of civil liberties reported by the FTUC.***

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (hereafter the Conference Committee) in June 2019 concerning the application of the Convention. It notes that the Conference Committee observed serious allegations concerning the violation of basic civil liberties, including arrests, detentions and assaults, and restrictions of freedom of association and noted with regret the Government’s failure to complete the process under the Joint Implementation Report (JIR). The Conference Committee called upon the Government to: (i) refrain from interfering in the designation of the representatives of the social partners on tripartite bodies; (ii) reconvene the Employment Relations Advisory Board (ERAB) without delay in order to start a legislative reform process; (iii) complete without further delay the full legislative reform process as agreed under the JIR; (iv) refrain from anti-union practices, including arrests, detentions, violence, intimidation, harassment and interference; (v) ensure that workers’ and employers’ organizations are able to exercise their rights to freedom of association, freedom of assembly and speech without undue interference by the public authorities; and (vi) ensure that normal judicial procedures and due process are guaranteed to workers’ and employers’ organizations and their members. The Conference Committee also requested the Government to report on progress made towards the implementation of the JIR in consultation with the social partners by November 2019 and called on the Government to accept a direct contacts mission to assess progress made before the 109th Session of the International Labour Conference. ***The Committee trusts that the direct contacts mission requested by the Conference Committee will be able to take place before the next International Labour Conference.***

*Trade union rights and civil liberties.* In its previous comments, the Committee requested the Government to respond in full detail to the FTUC allegations of continued harassment and intimidation of trade unionists, in particular with respect to its National Secretary, Felix Anthony. The Committee notes the Government’s general statement that Mr Anthony has been able to organize and carry out trade union activities without any interference from the Government and that the arrest, search and detention of persons previously alleged by the ITUC and the FTUC were not intended to harass or intimidate

trade unionists but to allow the Commissioner of Police to conduct investigations into alleged violations of applicable laws. The Government also affirms that the Commissioner of Police and the Office of the Director of Public Prosecutions are both independent and neither the entities nor their decisions are subject to the direction or control of the Government. The Committee notes with *concern*, however, the ITUC and FTUC allegations of continued intimidation by the police, arrests, detention, interrogation and the filing of criminal charges against trade unionists, as well as prolonged confiscation of personal and union property and violent dispersal of gatherings between April and June 2019. ***Recalling the interdependence between civil liberties and trade union rights and 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, the Committee requests the Government to make serious efforts to ensure that state entities and their officials refrain from anti-union practices, including arrests, detentions, violence, intimidation, harassment and interference in trade union activities, so as to contribute to an environment conducive to the full development of trade union rights. The Committee requests the Government to consider issuing instructions to the police and the armed forces in this regard and to provide training to ensure that any actions taken during demonstrations respect the basic civil liberties and fundamental labour rights of workers and employers.***

*Appointment of members to and the functioning of the Employment Relations Advisory Board to review labour legislation.* In its previous comments, having observed the FTUC concerns that the Government had systematically dismantled tripartism by removing or replacing the tripartite representation on a number of bodies with its own nominees, the Committee requested the Government to provide detailed information on the manner in which it designated individuals to these bodies and the representative nature of the organizations that appeared therein. The Committee notes the detailed reply provided by the Government on the appointment of members to the ERAB, the Fiji National Provident Fund, the Fiji National University, the Wages Council and the Air Terminal Service (Fiji) Limited. The Committee also notes the Government's clarification that, in addition to the ERAB, the National Occupational Health and Safety Advisory Board (NOHSAB) and the National Employment Centre Board (NECB) also have tripartite membership. The Government further indicates, with regard to the ERAB, that: (i) the Minister for Employment is the appointing authority and representatives of workers and employers are appointed from persons nominated by workers' and employers' organizations; (ii) appointment of members is undertaken through a consultation process to allow expanded representation of workers from various organizations; (iii) there is no interference from the Government in the designation of representatives of the social partners; and (iv) as the current ERAB membership ended in October 2019, the social partners were invited to submit nominees and both the Fiji Commerce and Employers Federation (FCEF) and the FTUC have already done so at the end of October 2019. The Committee observes, however, that, according to the FTUC, there is no indication as to when the appointment of ERAB members will take place, despite the urgency of the situation, and that the ITUC remains concerned about government manipulation of national tripartite bodies, thus curtailing the possibility of genuine tripartite dialogue. ***The Committee trusts that the Government will refrain from any undue interference in the nomination and appointment of members to the ERAB and to other tripartite bodies, and will ensure that the social partners can freely designate their representatives. The Committee expects the appointment of ERAB members to take place without delay so as to allow this mechanism to reconvene and meet regularly in order to pursue the labour law review and meaningfully address all outstanding matters in this regard.***

*Progress on the review of labour legislation as agreed in the JIR.* The Committee previously noted with regret the apparent lack of progress on the review of the labour legislation as agreed in the JIR and urged the Government to take the necessary measures with a view to rapidly bringing the legislation into line with the Convention. The Committee notes the Government's indication that several meetings took place with the tripartite partners and the ILO between June 2018 and August 2019, in which it was agreed that a number of matters under the JIR have already been implemented and that the tripartite partners are making good progress on the outstanding matters concerning the review of labour laws and the list of essential services and industries, despite the FTUC's boycott and withdrawal from the tripartite dialogue within the ERAB in June 2018, February and August 2019. The Committee notes that, according to the FTUC, the Government's reference to boycott clearly reveals that there remain issues in the appointment process of ERAB members and shows the Government's lack of genuine commitment to previously agreed timelines that had led to the boycott. The Committee also notes that the ITUC calls on the Government to return to the negotiating table with the social partners to fully implement the JIR and to grant safeguards and guarantees to those participating in the dialogue. ***In light of the above, the Committee urges the Government to take all necessary measures to continue to review the labour legislation within the reconvened ERAB, as agreed in the JIR, with a view to rapidly bringing it into line with the Convention, taking into account the Committee's comments below.***

*Article 2 of the Convention. Right of workers to establish and join organizations of their own choosing.* The Committee had previously noted that the following issues were still pending after the adoption of the Employment Relations (Amendment) Act, 2016: denial of the right to organize to prison guards (section 3(2)); and excessively wide discretionary power of the Registrar in deciding after consultation whether or not a union meets the conditions for registration under the Employment Relations Promulgation, 2007 (ERP) (hereinafter, ERA, section 125(1)(a) as amended). The Committee notes, on the one hand, the Government's indication that the tripartite partners met in August 2019 to discuss the proposed amendments and all clauses in the ERA matrix but observes, on the other hand, the FTUC allegation that no progress has been achieved since then and the matrix agreed by the tripartite partners is still pending with the Solicitor General's office. ***In the absence of any substantial progress in this regard, the Committee urges the Government to finalize the process of***

*review on the basis of the tripartite-agreed matrix so that the necessary amendments for bringing the legislation into full conformity with the Convention may be rapidly submitted to Parliament and adopted.*

*Article 3. Right of organizations to elect their representatives in full freedom, organize their activities and formulate their programmes.* The Committee had previously observed that, pursuant to section 185 of the ERA as amended in 2015, the list of industries considered as essential services included: (i) the services listed in Schedule 7 of the ERP; (ii) the essential national industries declared under the former Essential National Industries (Employment) Decree, 2011 (ENID) (financial industry, telecommunications industry, civil aviation industry and public utilities industry), and the corresponding designated companies; and (iii) the Government, statutory authorities, local authorities and government commercial companies (following the adoption of the Public Enterprise Act, 2019, these are now referred to as public enterprises – an entity controlled by the State and listed in Schedule 1 of the Act or designated as such by the Minister).

The Committee welcomes the Government's indication that, as agreed in the JIR and with the technical assistance of the Office, a workshop was held on 16 and 17 October 2019 with the participation of the tripartite partners to consider, gauge and determine the list of essential services and industries. The Committee also welcomes that, as a result of the workshop, the tripartite parties agreed on a time-bound plan of action to review the existing list of essential services within the ERAB and to engage in discussion with the aim of restricting limitations on the right to strike to essential services in the strict sense of the term and public servants exercising authority in the name of the State. The Government informs that it has received proposals for amendments from representatives of workers and employers and is currently considering them. The Committee notes, however, the concerns expressed by the FTUC that due to the Minister's absence from the workshop, all decisions had to be referred to the Solicitor General's office and that the timelines continue to be ignored without any justification for the delay in convening meetings to finalize the essential national industries list and the ERA matrix.

The Committee wishes to reiterate that while some essential industries are defined in line with the Convention, namely those which had been initially included in Schedule 7 of the ERP, other industries where strikes may now be prohibited due to the inclusion of the ENID in the ERA do not fall within the definition of essential services in the strict sense of the term, including: statutory government authorities; local, city, town or rural authorities; workers in managerial positions; the financial sector; radio, television and broadcasting services; civil aviation industry and airport services (except air traffic control); public utilities industry in general; pine, mahogany and wood industry; metal and mining sector; postal services; and public enterprises in general. The Committee also wishes to emphasize that provisions which prohibit the right to strike on the basis of potential detriment to public interest or economic consequences are not compatible with the principles relating to the right to strike. The Committee recalls, however, that for services which are not considered essential in the strict sense of the term, but in which strikes of a certain magnitude and duration could cause an acute crisis threatening the normal conditions of existence of the population or in public services of fundamental importance in which it is important to deliver the basic needs of users, a negotiated minimum service, as a possible alternative to fully restricting industrial action through imposed compulsory arbitration, could be appropriate. The right to strike may also be restricted for public servants but only those exercising authority in the name of the State. ***Given the extensive breadth of the services where workers' rights to take industrial action may be prohibited, as noted above, the Committee urges the Government to meaningfully engage with the social partners without further delay to review the list of essential services, as agreed in the JIR and the October 2019 action plan, so as to restrict limitations on the right to strike to essential services in the strict sense of the term and public servants exercising authority in the name of the State. The Committee requests the Government to provide information on the progress achieved in this regard.***

In addition, the Committee has requested for a number of years that the Government take measures to review numerous provisions of the ERA. In the absence of any progress reported in this regard, the Committee recalls that the following issues in the ERA are still pending: obligation of union officials to be employees of the relevant industry, trade or occupation for a period of not less than three months (section 127(a) as amended); prohibition of non-citizens to be trade union officers (section 127(d)); interference in union by-laws (section 184); excessive power of the Registrar to request detailed and certified accounts from the treasurer at any time (section 128(3)); provisions likely to impede industrial action (sections 175(3)(b) and 180); compulsory arbitration (sections 169 and 170, section 181(c) as amended, new section 191BS (formerly 191(1)(c)); penalty in form of a fine in case of staging an unlawful but peaceful strike (sections 250 and 256(a)); provisions likely to impede industrial action (section 191BN); penalty of imprisonment in case of staging a (unlawful or possibly even lawful) peaceful strike in services qualified as essential (sections 191BQ(1), 256(a), 179 and 191BM); excessively wide discretionary powers of the Minister with respect to the appointment and removal of members of the Arbitration Court and appointment of mediators, calling into question the impartiality of the dispute settlement bodies (sections 191D, 191E, 191G and 191Y); and compulsory arbitration in services qualified as essential (sections 191Q, 191R, 191S, 191T and 191AA). ***The Committee therefore requests the Government once again to take measures to review the above provisions of the ERA, in accordance with the agreement in the JIR and in consultation with the representative national workers' and employers' organizations, with a view to their amendment, so as to bring the legislation into full conformity with the Convention.***

*Public Order (Amendment) Decree (POAD).* With regard to its previous comments concerning the practical application of the POAD, the Committee notes that the Government simply reiterates that the POAD facilitates the maintenance of public order and that prior permission is required to ensure the carrying out of administrative functions and the provision of law enforcement officers to maintain order. While further noting that the Government points to two

instances, in October 2017 and January 2018, in which the FTUC obtained a permit and undertook marches, the Committee observes that, according to the FTUC, its recent requests to march from May, August and November 2019 were all refused. The ITUC and the FTUC denounce that permission for union meetings and public gatherings continues to be arbitrarily refused and that section 8 of the POAD has been increasingly used to interfere in, prevent and frustrate trade union meetings and assemblies. ***The Committee once again requests the Government to take the necessary measures to bring section 8 of the POAD into line with the Convention by fully repealing or amending this provision so as to ensure that the right to assembly may be freely exercised.***

***Political Parties Decree.*** The Committee had previously noted that, under section 14 of the 2013 Political Parties Decree, persons holding an office in any workers' or employers' organization are banned from membership or office in any political party and from any political activity, including merely expressing support or opposition to a political party; and that sections 113(2) and 115(1) of the Electoral Decree prohibit any public officer from conducting campaign activities, and any person, entity or organization that receives any funding or assistance from a foreign government, intergovernmental or non-governmental organization to engage in, participate in or conduct any campaign (including organizing debates, public forums, meetings, interviews, panel discussions, or publishing any material) that is related to the election. In its previous comments, the Committee further observed that the Political Parties Decree was unduly restrictive in prohibiting membership in a political party or any expression of political support or opposition by officers of employers' or workers' organizations, and requested the Government once again to take measures to amend the above provisions, in consultation with the representative national workers' and employers' organizations. ***Observing that the Government does not provide any new information and noting the ITUC concerns about the restrictive effect of the Political Parties Decree on legitimate trade union activities, the Committee reiterates its request in this respect.***

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1974)**

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019 and of the Fiji Trades Union Congress (FTUC) received on 23 August 2018, and 23 May and 13 November 2019, denouncing massive dismissals of workers, including members of the National Union of Workers (NUW), restrictions on collective bargaining, especially in the public sector and essential services, and lack of progress on the legislative reform. The Committee notes the Government's reply thereto. In its previous comment, the Committee also requested the Government to provide a reply to the 2016 observations from Education International and the Fiji Teachers' Union (FTU) concerning the lack of consultation in regard to wages and terms and conditions of employment. The Committee notes the Government's reply that it has been continuously meeting with representatives of the FTU and the Fijian Teachers' Association (FTA) in relation to the terms and conditions of employment, including in November 2018 and February 2019.

***Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.*** With reference to the long-standing dispute in relation to the Vatukoula Mining Company (concerning the refusal to recognize a union and the dismissal of striking workers over 20 years ago), the Committee recalls that, in its previous comments, it had noted the Government's indication that the Vatukoula Social Assistance Trust Fund (VSATF) had been established to benefit around 800 recipients through money grants and assistance for relocation, small and micro-enterprise development and education for dependants. The Committee noted the completion of a mediation process and requested the Government to supply detailed information on its outcome and the follow-up measures taken to compensate the persons concerned, as well as in relation to the VSATF fund. The Committee notes the Government's indication that, following the mediation process and keeping in mind that it does not have any legal obligation to compensate the concerned workers, it is considering making an ex gratia payment to the workers in view of resolving their grievances but that this will require Cabinet approval. The Committee observes, however, that the Government does not provide any details as to the actual outcome of the mediation or the use of the VSATF fund. ***Recalling that this long-standing dispute has caused great hardship to the dismissed workers, the Committee expects that it will be finally and equitably resolved through the implementation of a mutually satisfactory settlement. The Committee requests the Government to supply information on the outcome of the mediation process and any compensation granted to the concerned workers, including any recourse to the VSATF fund. It also invites the Fiji Mine Workers' Union (FMWU) to provide information on any developments in this regard.***

***Article 4. Promotion of collective bargaining.*** In its previous comment, the Committee welcomed the repeal of the Essential National Industries (Employment) Decree, 2011 (ENID) through the adoption of the Employment Relations (Amendment) Act, 2015, as well as the removal of the concept of bargaining units from the Employment Relations Promulgation, 2007 through the Employment Relations (Amendment) Act, 2016. The Committee noted with regret however that the abrogation by ENID of the collective agreements in force which it had considered contrary to *Article 4*, had not been addressed and requested the Government to engage in consultations with the representative national workers' and employers' organizations with a view to exploring a mutually satisfactory solution in this respect. The Committee notes the Government's indication that there has been successful bargaining between employers and workers between 2016 and 2018 resulting in the signing of 63 collective agreements and 59 amendments to collective agreements but observes that, according to the FTUC: (i) all negotiations have been reverted to zero instead of using the abrogated agreements as a basis for discussion; (ii) the topics that can be negotiated in the local Government sector are severely restricted; and (iii) there is a continued refusal of the Government to engage in collective bargaining in the public sector. The FTUC also denounces that

all Government-owned entities, including those employing teachers, nurses and civil servants, insist on imposing individual fixed-term contracts without any consultation with the unions, as a way of achieving the goals of the abrogated ENID. ***In light of the above, the Committee requests the Government to continue to take concrete measures to facilitate negotiations and promote collective bargaining between workers and employers or their organizations in the public sector so as to create an enabling environment for collective agreements to be concluded in replacement of those abrogated by ENID. It also requests the Government to continue to provide information on the number of collective agreements concluded, the sectors to which they apply and the number of workers covered.***

***Compulsory arbitration.*** In its previous comment, the Committee noted that sections 191Q(3), 191(R), 191(S) and 191AA(b) and (c) of the Employment Relations Act (ERA), as amended in 2015, allowed for compulsory conciliation or arbitration and requested the Government to take measures to review the above provisions with a view to their amendment so as to bring the legislation into full conformity with the Convention. The Committee notes the Government's statement that the Minister for Employment, Productivity and International Relations conducts compulsory arbitration only where he or she considers that the dispute may be resolved by conciliation and that one such dispute has been resolved through compulsory conciliation in 2018. The Government informs that the Employment Relations Advisory Board (ERAB) will review the relevant laws and consider any appropriate amendments. The Committee recalls once again that compulsory arbitration is contrary to the voluntary nature of collective bargaining and is only acceptable 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 expects that the above provisions of the ERA will be reviewed within the ERAB, in accordance with the agreement in the Joint Implementation Report and in consultation with the representative national workers' and employers' organizations, with a view to their amendment so as to bring the legislation into full conformity with the Convention.***

## Gambia

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

***Trade union rights and civil liberties.*** In its previous comment, the Committee had requested the Government to provide comments on the observations of the International Trade Union Confederation received on 1 September 2017, which contains allegations of arbitrary arrests of several leaders of the Gambian National Transport Control Association (GNTCA), the death of Mr Sheriff Diba, one of the arrested leaders, while in detention, and the ban imposed on the activities of the GNTCA. The Committee notes with ***regret*** that the Government does not provide any concrete information on these grave allegations and their investigation and only indicates that the case involving the leaders of the said Association has been discontinued before the High Court of The Gambia and that the parties have been discharged. The Committee further recalls the need to make every effort to investigate the alleged grave violations of trade union rights, with a view to apportioning responsibility and punishing the perpetrators. ***The Committee requests the Government to take any necessary additional measures to ensure that these grave allegations are duly investigated and to provide information in this respect, including as to the process before the High Court of The Gambia and its outcome.***

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)***

***Scope of the Convention.*** ***Civil servants not engaged in the administration of the State, prison officers and domestic workers.*** For a number of years, the Committee has been requesting the Government to indicate if the excluded employees under section 3(2) of the Labour Act (prison officers, domestic workers and civil servants not engaged in the administration of the State) are afforded the right to collective bargaining under Part XIII of the Labour Act as a result of an order published in the gazette by the Secretary of State and if so, to provide a copy of the said order. The Committee had also requested the Government to inform it how these categories of workers are afforded adequate protection against acts of anti-union discrimination and interference, in accordance with *Articles 1* and *2* of the Convention. The Committee notes the Government's indication that while the excluded employees under section 3(2) of the Labour Act 2007 are not afforded the right to collective bargaining, they are accorded equal rights under the General Order (GO), Public Service Commission Regulations and the Terms and Conditions of Service for Men and Officers in the Military. The Government further indicates that it is introducing a new Trade Union Bill 2019 in which the above-mentioned exclusion of these categories of workers may be reviewed to take into consideration *Articles 1* and *2* of the Convention. In this respect, the Committee recalls that, according to *Articles 5* and *6*, only members of the armed forces and the police, as well as public servants engaged in the administration of the State may be excluded from the guarantees set out in the Convention. ***The Committee therefore requests the Government to provide information on any developments regarding the adoption of the Trade Union Bill and the guarantee that the rights afforded by the Convention are ensured for prison officers, domestic workers and civil servants not engaged in the administration of the State, including adequate protection against acts of anti-union discrimination and interference.***

*Article 4. Measures to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or their organizations and workers' organizations.* In its previous comments, the Committee had noted that according to section 130 of the Act, in order to be recognized as a sole bargaining agent, a trade union should represent a certain percentage of employees under a contract of service (30 per cent in the case of a single union and at least 45 per cent if the establishment in question employs at least 100 people; in this case, the bargaining agent could be composed of two or more trade unions). The Committee recalled 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 should be able to negotiate, jointly or separately, at least on behalf of their own members. The Committee further noted that section 131 of the Act provides that an employer may, if he or she wishes, organize a secret ballot to establish a sole bargaining agent, and recalled 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 therefore requested the Government to provide information on any developments in bringing the legislation into conformity with the Convention. ***In the absence of a reply from the Government on this point, the Committee reiterates its request. The Committee expresses the firm hope that in its next report, the Government will provide information on the progress achieved in this respect.***

*Promotion of collective bargaining in practice.* ***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.***

## Guatemala

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019. ***The Committee notes that these observations refer to matters examined in the present comment and also to reports of violations of the Convention in practice, regarding which the Committee requests the Government to send its comments.***

The Committee also 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 September 2019, referring to matters examined by the Committee in the present comment.

Lastly, the Committee notes the Government's replies to the observations made in 2018 by the ITUC, the Guatemalan Autonomous Trade Union and People's Movement and the Global Unions of Guatemala. These replies were taken into consideration by the Committee in its examination of the various issues raised in the present comment.

### ***Follow-up to the decision adopted by the Governing Body at its 334th Session concerning the closure of the complaint submitted under article 26 of the ILO Constitution alleging non-observance of the Convention***

The Committee notes the discussions which took place during the 337th Session (October–November 2019) of the Governing Body concerning additional measures taken to ensure a sustained and comprehensive implementation of the road map adopted in October 2013 as part of the follow-up to the complaint submitted in 2012 under article 26 of the ILO Constitution alleging non-observance of the Convention.

The Committee notes that the Governing Body decided, in accordance with what was established at its November 2018 session, that a second discussion of this matter will be held in November 2020. The Committee also notes the indication given during the exchanges in the Governing Body that a technical cooperation project drawn up by the Office in consultation with the national tripartite constituents to support the full implementation of the road map will be submitted shortly to the international donors.

### ***Trade union rights and civil liberties***

The Committee notes with *regret* that since 2005 it has been examining, in the same way as the Committee on Freedom of Association, allegations of serious acts of violence against trade union leaders and members, including numerous murders, and the related situation of impunity. The Committee notes the information provided by the Government in its report on the application of the present Convention and also the information contained in the reports presented to the Governing Body in September 2019 by the Government, on the one hand, and by the Guatemalan Autonomous Trade Union and People's Movement and the Global Unions of Guatemala, on the other. The Committee also notes that the Committee on Freedom of Association, at its October–November 2019 session, examined Case No. 2609, which groups together the complaints of acts of anti-union violence, including 90 murders of members of the trade union movement recorded between 2004 and 2018 (see Case No. 2609, 391st Report of the Committee on Freedom of Association, paragraphs 270–302).

Referring to the examination of the above-mentioned case by the Committee on Freedom of Association for a detailed analysis of the situation of anti-union violence in the country, and of the action taken by the public authorities in this regard, the Committee highlights that: (i) since its last comment, the perpetrators of two murders committed in 2017 and 2018 were

convicted in July 2019, the Government indicating that one of the murders took place in the context of numerous administrative and judicial proceedings for the non-observance of labour and trade union legislation; (ii) however, the vast majority of the 90 reported murders of members of the trade union movement remain unpunished, since only 20 convictions relating to 18 murders have been handed down so far; (iii) the Government continues to provide information on the institutional efforts made to elucidate all the above-mentioned murders and impose the appropriate penalties, as well as on other acts of anti-union violence, emphasizing in this regard the importance of the Special Investigation Unit at the Public Prosecutor's Office and of the tripartite Subcommittee on Follow-Up to the Roadmap; (iv) the Guatemalan Autonomous Trade Union and People's Movement and the Global Unions of Guatemala claim that there has been a regression in the protection policy implemented by the Ministry of the Interior; and (v) while the Government continues to provide information on the protection measures granted to members of the trade union movement, the Committee notes that these measures continue to be perimeter protection measures and not personal protection measures, with the exception of two cases in 2018 and 2019, and that the requests for protection made by members of the trade union movement have decreased significantly in 2019.

The Committee also notes with *deep concern* that the ITUC denounces in its observations the murder on 24 November 2018 of another member of the trade union movement, Mr Edras Ezequiel De La Rosa Morales, leader of the Union of Secondary-Level Distance Education Workers of Santa Rosa (SINTRAT-SR). The ITUC states that although the motives for the crime are unknown, the victim was a recognized leader of the above-mentioned union who was deeply involved in fighting for the observance of labour rights in the public education sector. The Committee also notes that the ITUC reports: (i) the attempted murder of Mr Joviel Acevedo Esteban, leader of the Education Workers' Union of Guatemala (STEG), and of Mr Hermelindo Cux, from the Committee for Rural Worker Unity; and (ii) the alleged intimidation, on 9 August 2018, of Ms Mirna Nij, general secretary of the Women's Trade Union Federation of Guatemala. ***Recalling that trade union rights can only be exercised in a climate free of violence, pressure or threats of any kind against trade unionists, and that it is for governments to ensure that this principle is respected, the Committee requests the Government to provide information on these individual allegations and to ensure that all appropriate protection measures are granted to persons who have been subjected to threats and intimidation.***

In view of the above, while duly noting the action still being taken by the Government, the results reported and the difficulty involved in resolving the oldest murder cases, the Committee can only express its *deep concern* at the persistence of a high level of impunity, and at the reports of new acts of anti-union violence. ***The Committee therefore once again urges the Government to take and intensify, as a matter of urgency, all the necessary measures: (i) to investigate all acts of violence against trade union leaders and members with a view to determining responsibilities and punishing the perpetrators and instigators of such acts, taking the trade union activities of the victims fully into consideration in the investigations; and (ii) to provide prompt and effective protection for all trade union leaders and members who are at risk. With regard to the specific action required to achieve those objectives, the Committee refers to the recommendations made by the Committee on Freedom of Association in the context of Case No. 2609.***

### Legislative issues

*Articles 2 and 3 of the Convention.* The Committee recalls that for many years it has been asking the Government to take measures to amend the following legislative provisions:

- 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 sector trade union (in its previous comment, the Committee noted with concern the trade unions' indication that the combination of the impossibility of establishing sector trade unions under the requirements of section 215(c) and the impossibility in small enterprises, which account for almost all Guatemalan companies, to meet the Labour Code requirement of 20 workers for the establishment of a trade union, meant that most of the country's workers were unable to exercise the right to join a trade union);
- 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;
- section 241 of the Labour Code, under the terms of which, in order to be lawful, strikes have to be called by a majority of the workers and not by a majority of those casting votes;
- 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; and
- 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.

The Committee also recalls that for many years it has been asking the Government to take measures to ensure that various categories of public sector workers (hired under item 029 and other items of the budget) enjoy the guarantees afforded by the Convention.

In its previous comment, the Committee noted with interest the tripartite agreements concluded in February and August 2018 relating to various aspects of the reforms needed to bring the legislation into line with the Convention. The Committee

expressed the hope that, on the basis of the above, the Government would soon be in a position to report the adoption, requested for many years, of legislation which fully complies with the obligations contained in the Convention.

The Committee notes that the Government recalls that: (i) it previously submitted Bill No. 5199 with the purpose of bringing the legislation into line with the Convention and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); and (ii) it asked the President of the National Congress Working Committee to defer the discussion in plenary of the Congress of Bill No. 5199 in order to facilitate a tripartite consensus on the above-mentioned reforms; consequently, since August 2017, the National Congress has been awaiting the consensus of the social partners. The Government adds that during the meeting of July 2019 of the National Tripartite Committee, on the basis of the agreements reached in February and August 2018, the Ministry of Labour underlined the importance of adopting a timeframe for addressing legislative matters that were awaiting a tripartite agreement (industry trade unions and some aspects of the laws regarding strikes).

The Committee notes that the CACIF reiterates its commitment to the implementation of the road map and its legislative reform component. While supporting the stance adopted by the Employers' group in the various ILO bodies, maintaining that the right to strike is neither contained in nor derived from any ILO Convention, the CACIF indicates its continued willingness to work on a tripartite basis to adopt a reform proposal that satisfies national interests in the matter.

The Committee also notes that the Guatemalan Autonomous Trade Union and People's Movement and the Global Unions of Guatemala stated in their report submitted during the discussion at the 337th Session of the Governing Body that in the last year no progress has been made on the legal reforms contained in the road map and specifically that: (i) the initiatives put forward in the National Tripartite Committee, including by ILO officials, were met with lack of interest on the part of the employers and the Government; and (ii) as a result, it is still not accepted that individuals have the right to organize in sector or industry trade unions, or that foreign citizens have the right to freedom of association or that the persons directly concerned can take the decision to go on strike.

The Committee notes with *regret* that it can be seen from the above that since its last comments no real progress has been made on the drafting or adoption of legislation that would bring the existing laws into line with the Convention. ***Emphasizing the importance of the tripartite agreements reached in 2018 and the need to finally resolve the major discrepancies identified for decades between the legislation and the Convention, the Committee trusts that the tripartite constituents will resume the dialogue on the still pending issues in the very near future. The Committee urges the Government to take the necessary steps, taking account of the outcome of the above-mentioned dialogue, to adopt legislation that fully complies with the Convention. The Committee firmly hopes that the Government's next report will contain indications of major progress.***

### ***Application of the Convention in practice***

***Registration of trade unions.*** In its previous comments, having made special note of the registration of trade unions, the Committee asked the Government to intensify the dialogue with the trade unions on revising and accelerating the trade union registration procedure. The Committee notes the Government's indication that, further to the recommendations made by the Committee on Freedom of Association in October 2015 in the context of Case No. 3042, there are no obstacles to the free registration of trade union organizations. Specifically, the Government states that: (i) from the total of 36 applications for registration received in 2018, 34 trade unions were registered (20 in the public sector and 14 in the private sector); (ii) from the total of six applications received between 1 January and 29 April 2019, six trade unions were registered (five in the public sector and one in the private sector); (iii) it has prepared and disseminated a "trade union information pack", after presenting this "pack" at a tripartite meeting in December 2018, in order to provide effective information to workers who wish to establish a trade union; and (iv) in May 2019, an invitation was issued to the workers' sector to participate in talks on the process of establishing trade unions. Lastly, the Government adds that it would be important to know precisely if there are specific cases of trade unions in the process of being established which are facing any difficulties regarding their registration.

The Committee also notes, however, that the Guatemalan Autonomous Trade Union and People's Movement and the Global Unions of Guatemala, in their report to the Governing Body in September 2019, state that: (i) Guatemala remains the Latin American country with the lowest rate of trade union membership (1.5 per cent); (ii) according to the figures supplied by the Government itself in its report to the Governing Body, there has been a significant decrease in new trade union registrations in 2018 and 2019 compared with previous years; (iii) there is a notable contrast between the number of unions registered in 2019 and the much higher number of registration applications made in the same year; and (iv) the above information illustrates the fact that the Ministry of Labour maintains the practice of imposing registration requirements which are complex and legally dubious. ***Noting the divergent views of the Government and the trade unions in this regard, the Committee once again invites the Government and the trade unions to take major steps forward in their dialogue on accelerating the process of trade union registration. The Committee requests the Government to provide information on all progress made in this respect and reminds it once again that it may avail itself of technical assistance from the Office.***

***Settlement of disputes relating to freedom of association and collective bargaining.*** With regard to the functioning of the Mediation and Dispute Settlement Subcommittee of the National Tripartite Committee, the Committee refers to its observations on the application of Convention No. 98.

***Awareness-raising campaign on freedom of association and collective bargaining.*** In its previous comments, after noting a series of initiatives that had been taken or envisaged, the Committee urged the Government, in collaboration with

the social partners, to ensure that the awareness-raising campaign on freedom of association and collective bargaining, provided for in the 2013 road map, was given real visibility in the national mass media. The Committee notes that the Government has made no further reference to the implementation of the awareness-raising campaign through the social networks of the Government, the *Diario de Centroamérica* (the official government newspaper in Guatemala) and a national radio station, and that the Government merely indicates that it submitted two draft press releases on the observance of Conventions Nos 87 and 98 to the National Tripartite Committee. The Government states that it is still awaiting the observations of the trade unions on these proposed press releases. The Committee also notes that the Guatemalan trade union federations, in their September 2019 report to the Governing Body, claim that no progress has been made in the implementation of awareness-raising and dissemination campaigns relating to freedom of association.

The Committee notes with *regret* that since its last comment no significant progress has been made in the implementation of the awareness-raising campaign on freedom of association and collective bargaining. ***Emphasizing the major contribution that the National Tripartite Committee and its tripartite members should make in this respect and the responsibility that ultimately lies with the Government for ensuring that the commitments made in the road map are effectively implemented, the Committee once again urges the Government to take the necessary steps, in collaboration with the social partners, to ensure that the awareness-raising campaign on freedom of association and collective bargaining is given real visibility in the national mass media.***

***The Committee hopes that, in the context of the implementation of the decision taken at the November 2018 session of the Governing Body, the Government will take the necessary measures, with the participation of the social partners in the National Tripartite Committee on Labour Relations and Freedom of Association and with the technical assistance from the Office, to remedy in the very near future the serious violations of the Convention noted for many years by the Committee.***

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

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019. ***The Committee notes that these observations refer to matters examined in the present comment and also to reports of violations of the Convention in practice, regarding which the Committee requests the Government to send its comments.***

The Committee also notes the observations of the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), received on 1 September 2019, referring to matters examined by the Committee in the present comment.

Lastly, the Committee notes the Government's replies to the observations made by the ITUC in 2018, which included among others, allegations of anti-union discrimination and obstruction of collective bargaining in both the public and private sectors. These replies were taken into consideration by the Committee in its examination of the various issues raised in the present comment.

With regard to the examination by the Governing Body of the complaint made under article 26 of the ILO Constitution concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in the context of which various matters arose in relation to the application of the present Convention, the Committee recalls that the Governing Body, at its 334th Session (October–November 2018), decided to: (i) declare closed the procedure initiated under article 26 of the ILO Constitution; (ii) urge the Government and social partners in Guatemala, with the technical assistance of the Office, to continue to devote all the efforts and resources necessary to achieve a sustained and comprehensive implementation of the road map adopted in October 2013 as part of the follow-up to the above-mentioned complaint; and (iii) establish that the Government of Guatemala would report to the Governing Body, at its October–November 2019 and October–November 2020 sessions, on the further action taken in order to implement the road map.

The Committee notes that, in accordance with what was established by the Governing Body in October–November 2018, a first discussion of measures taken took place in November 2019, with the second discussion planned for November 2020. The Committee also notes the indication given during the exchanges in the Governing Body that a technical cooperation project drawn up by the Office (in consultation with the constituents) to support the full application of the road map will be submitted shortly to the international donors.

***Article 1 of the Convention. Protection against anti-union discrimination. Activities of the labour inspectorate.*** In its previous comments, the Committee noted with satisfaction that Legislative Decree No. 7/2017 had restored the power of the labour inspectorate to impose penalties and asked the Government to provide information on the impact of the new Legislative Decree regarding protection against acts of anti-union discrimination.

The Committee notes the Government's indications in this respect that: (i) between January 2018 and April 2019, the total number of penalties notified by the labour inspectorate was 1,233, of which 316 have already been paid; (ii) in this early phase of implementation of Decree No. 7/2017, it is not yet possible to disaggregate and isolate information on the penalties applied for violations of trade union rights and of collective bargaining; (iii) however, the labour inspectorate (IGT) is developing an electronic system in order to have disaggregated information on, inter alia, the reasons for the

penalties and the action taken to comply with them, and the IGT gives a firm undertaking in this respect to provide the requested information in the very near future; (iv) nevertheless, the IGT was able to report that between 2017 and April 2019 it handled 1,179 complaints from trade unions, including, in particular, 333 allegations of reprisals against trade union leaders; and (v) the IGT has a Tripartite Advisory Council, which met on three occasions between January and August 2019 as an appropriate forum for the IGT and the social partners to exchange views on improving the implementation of Decree No. 7/2017.

The Committee welcomes the efforts to develop a comprehensive information system that enables follow-up action to be taken in relation to penalties imposed in matters concerning freedom of association and collective bargaining and tripartite dialogue on the application of the legislation relating to labour inspection to be strengthened. While recalling its previous comments on the content of Legislative Decree No. 7/2017 in the context of monitoring the application of the Labour Inspection Convention, 1947 (No. 81), the Committee once again underlines the vital importance of labour inspection in achieving adequate protection against acts of anti-union discrimination, especially in a context of numerous complaints on this matter. ***In view of the above, the Committee requests the Government to reinforce the measures taken to ensure that infringements of trade union rights and collective bargaining are given priority treatment by the labour inspectorate and to ensure that an effective system of information on the follow-up given to inspections in this regard is established. The Committee requests the Government to provide detailed information in this respect, including the statistics requested in its previous comment. The Committee recalls that the Government may avail itself of the technical assistance of the Office, especially in the context of the start of the technical cooperation project which the Office is about to present to the international donors.***

***Effective judicial proceedings.*** In its previous comments, the Committee expressed concern at the many complaints alleging the persistent slowness of judicial procedures in relation to anti-union discrimination and the high level of non-compliance with reinstatement orders. While welcoming the initiative to adopt a reform of the judicial labour proceedings, the Committee emphasized the need for this initiative to include as one of its priorities the adoption of effective judicial procedural rules to ensure that all cases of anti-union discrimination are examined by the courts in summary proceedings and that the respective court rulings are implemented rapidly.

In this regard, the Committee notes that: (i) the general statistics supplied by the Government on the judicial processing of reinstatement requests in the context of collective disputes continue to show a substantial accumulation of cases pending before the labour courts and before the Public Prosecutor's Office and a very high level of non-compliance with judicial reinstatement orders; (ii) similar conclusions can be reached from the Government's detailed replies to specific allegations of anti-union dismissals contained in the 2018 observations of the ITUC and the national trade union federations; (iii) the ITUC's 2019 observations once again refer to several cases of anti-union discrimination and the ineffectiveness of the justice system in this respect; (iv) CACIF emphasizes that, according to the data supplied by the judiciary, the public sector is where most reinstatements are requested; and (v) even though the draft reform of the judicial procedural rules on labour matters prepared by the Supreme Court, referred to in the Committee's previous comment, has been submitted to the social partners, giving rise to comments from the employers, no information has been provided on the possible adoption in law of the draft reform.

The Committee notes with ***concern*** that the details provided above reveal a lack of progress regarding the judicial response to the cases of anti-union dismissals, an issue which has been raised in its comments on the application of the Convention by Guatemala since 2001. In this regard, the Committee emphasizes that: (i) anti-union discrimination represents one of the most serious violations of freedom of association, since it can endanger the very existence of trade unions; (ii) the persistent failure to comply with a high proportion of reinstatement orders in cases of anti-union dismissals has been highlighted in the recent Governing Body discussions on the application of the road map adopted in 2013; and (iii) in a recent case, the Committee on Freedom of Association once again urged the Government, in consultation with the social partners, to carry out a thorough review of the procedural rules of the relevant labour regulations in order to ensure that the judiciary provides appropriate and effective protection in cases of anti-union discrimination (see Case No. 3188, 386th Report of the Committee on Freedom of Association, paragraph 340).

***In view of the above, the Committee urges the Government to address as a matter of priority the need to provide an effective judicial response to the cases of anti-union discrimination. The Committee especially urges the Government: (i) to take measures as soon as possible, in coordination with all the competent authorities, to overcome the obstacles to effective compliance with the reinstatement orders handed down by the courts; and (ii) to take the necessary steps to ensure that, in consultation with the social partners, new procedural rules are adopted so that all cases of anti-union discrimination are examined by the courts in summary proceedings and the respective court rulings are implemented rapidly. The Committee requests the Government to provide information in this respect.***

***Article 4. Promotion of collective bargaining.*** In its previous comments, the Committee noted with growing concern the low and ever-decreasing number of collective agreements that had been signed and approved. The Committee therefore asked the Government to make use of the new National Tripartite Committee on Industrial Relations and Freedom of Association to examine with the social partners the obstacles, both legislative and practical, to the effective promotion of collective bargaining with a view to taking measures to foster collective bargaining at all levels.

The Committee notes the information provided by the Government indicating that approval was given to: (i) 17 collective agreements in 2017 (11 in the public sector, six in the private sector); (ii) 14 collective agreements in 2018 (six in the public

sector, eight in the private sector); and (iii) 12 collective agreements between 1 January and 18 September 2019 (eight in the public sector and four in the private sector).

The Committee notes with *concern* that there has been no change in the extremely low number of collective agreements agreed and approved, also recalling that, to date, collective agreements are negotiated and concluded on a decentralized basis, at the level of enterprises and public institutions, which suggests, in the absence of statistics in this respect, extremely low coverage in terms of collective bargaining in the country. The Committee also recalls that, in its previous comment, it noted with interest that the tripartite agreement concluded by the national constituents in November 2017 identified, among the objectives of the legislative reform due to be submitted to the Congress of the Republic, the mechanisms and requirements applicable to sectoral collective bargaining. In this regard, the Committee notes the Government's indication that, in the context of the discussions on the legislative reforms contemplated in the road map of 2013 and the agreement of 2017, the national constituents agreed in August 2018 on a set of principles on which the future legislation should be based, principles that include the right to collective bargaining of industry trade unions.

***The Committee once again requests the Government to make use of the National Tripartite Committee on Industrial Relations and Freedom of Association to examine with the social partners the obstacles, both legislative and practical, to the effective promotion of collective bargaining so that it is able to take measures to promote collective bargaining at all levels. In this regard, the Committee trusts that the agreement of August 2018 concerning the principles on which the reform of the labour legislation should be based will soon be reflected in the adoption of legislation in the very near future.***

*Articles 4 and 6. Promotion of collective bargaining in the public sector.* In its previous comments, noting the observations of the ITUC and various national trade union federations and recalling that Guatemala has ratified the Collective Bargaining Convention, 1981 (No. 154), which covers the public sector, the Committee asked the Government to take steps to facilitate the process of the approval of collective agreements in the public sector and ensure that any refusal to approve a collective agreement was on grounds compatible with the Convention. The Committee also asked the Government to send its comments on the trade union observations denouncing the prohibition on wage negotiation in the public sector and the legal proceedings instituted by the Public Prosecutor's Office against 14 collective agreements. Lastly, the Committee asked the Government to take the necessary steps, in consultation with the trade union organizations concerned, to ensure that collective bargaining in the public sector takes place in a clear and balanced regulatory framework.

With regard to the approval of public sector collective agreements and the possibility of negotiating wages in the public administration, the Committee notes the Government's indications that: (i) section 96 of the Act on the general budget (revenue and expenditure) of the State for the 2019 financial year and section 19 of the "Annual plan of wages and regulations for the Administration" (Government Order No. 245-2018) recognize the possibility of pay negotiations in government entities, taking account of the financial conditions of the State, such information being provided by the Ministry of Finance; (ii) the Ministry of Labour issued a circular dated 25 January 2019 to expedite the process of approval of collective agreements; (iii) in late 2018, the Ministry of Labour submitted to the National Tripartite Committee a draft government order for the purpose of establishing the formal requirements for approval of collective agreements in the public administration; tripartite consolidation of the text is pending; and (iv) the collective agreement on conditions of work of the Education Workers' Union of Guatemala has already been approved and is now in force. The Government has also provided a chart indicating 12 applications for approval of collective agreements (six in the private sector and six in the public sector) submitted between January and July 2019, in which reference is made to the approval of a single agreement; decisions on the other agreements are pending.

***The Committee welcomes the efforts of the Ministry of Labour to strengthen the regulatory framework governing the approval of collective agreements in the public sector, and trusts that the tripartite process which has been initiated will lead to the adoption of legislation in accordance with the Convention and that it will contribute towards significantly expediting the approval process which, according to the information supplied by the Government, is still excessively long. The Committee requests the Government to provide information in this regard.***

With regard to the claims of the trade union organizations concerning investigations and legal proceedings launched by the Public Prosecutor's Office against a number of collective agreements in the public sector, the Committee notes the Government's statement that the Public Prosecutor's Office does not systematically challenge the benefits granted through collective bargaining but seeks to ensure that the principle of legality prevails in the exercise of the right to collective bargaining. The Committee once again considers that a practice whereby the authorities almost systematically challenge the benefits awarded to public sector workers on the basis of considerations related to "rationality" or "proportionality" with a view to their cancellation (by reason, for example, of their cost deemed to be excessive) would seriously jeopardize the very institution of collective bargaining and weaken its role in the settlement of collective disputes. However, if the collective agreement contains provisions that are contrary to fundamental rights (e.g. non-discrimination), the judicial authority could nullify these provisions so as to ensure respect of higher standards (see the 2012 General Survey on the fundamental Conventions, paragraph 207). ***The Committee therefore once again requests the Government to take all possible steps to promote the negotiated, consensual settlement of any disputes that arise regarding the supposedly excessive nature of certain clauses in collective agreements in the public sector.***

*Application of the Convention in practice. Maquila sector.* In its previous comments, having noted with concern that the unionization rate in the sector was below 1 per cent and that the approval of only one collective agreement covering

a *maquila* (export processing) enterprise was known in recent years, the Committee asked the Government to examine with the social partners, in the new National Tripartite Committee on Industrial Relations and Freedom of Association, the obstacles to the exercise of trade union rights and collective bargaining in the *maquila* sector and to intensify initiatives for the effective promotion of these rights in the sector. ***The Committee notes with regret that the Government's report does not contain any specific information on the requested actions or any new data relating to the exercise of trade union rights and collective bargaining in the maquila sector. The Committee is therefore bound to repeat its previous requests and hopes that the Government will provide information on specific initiatives in its next report.***

***Application of the Convention in municipal authorities.*** In its previous comment, in view of the large number of allegations of violations of the Convention at the municipal level, the Committee urged the Government to take all the necessary measures to ensure compliance with the Convention in municipalities. The Committee notes the Government's indication that, in the context of the entry into office of the new municipal authorities resulting from the municipal elections of June 2019, the Ministry of Labour submitted to the National Tripartite Committee a proposal for a statement concerning the need to avoid anti-union dismissals in municipal authorities. The Ministry is still awaiting comments on this matter from the worker members of the National Tripartite Committee.

The Committee also notes the Government's detailed replies to the 2018 observations of the ITUC, the Guatemalan Autonomous Trade Union and People's Movement and the Global Unions of Guatemala concerning specific situations within municipalities. The Committee notes with ***concern*** that the information supplied shows that both labour inspections and court decisions are often insufficient to resolve situations involving violations of the Convention, especially in relation to cases of anti-union dismissals of municipal workers.

***Underlining the need for effective mechanisms to ensure that municipal authorities comply with the rule of law and that an exhaustive analysis is carried out of the reasons for the high degree of conflict in this sector, the Committee urges the Government to take all the necessary measures, including the adoption of legislation if necessary, to ensure the application of the Convention in the municipal authorities. The Committee requests the Government to provide information on progress made in this respect.***

***Tripartite dispute settlement in relation to freedom of association and collective bargaining.*** In its previous comment on the present Convention, published in 2018, the Committee noted with interest that the tripartite agreement signed on 2 November 2017 provided that the new National Tripartite Committee on Industrial Relations and Freedom of Association will incorporate the functions of the tripartite Dispute Settlement Committee, established in 2016 for the purpose of resolving disputes concerning freedom of association and collective bargaining by means of voluntary conciliation. In the above comment, and in its comment on the application of the Labour Inspection Convention, 1947 (No. 81), published in 2019, the Committee, noting the large number of disputes referred to the ILO, encouraged the Government and the social partners to devote the necessary efforts to ensure that the new Dispute Settlement Subcommittee can contribute very quickly to a better application of the Conventions on freedom of association and collective bargaining ratified by Guatemala.

The Committee notes the Government's indication that: (i) it conveyed its willingness to the National Tripartite Committee to immediately hire an independent mediator who will be chosen by the parties and attached to the new Dispute Settlement Subcommittee; (ii) the tripartite members of the Subcommittee are continuing their discussions on approving the internal regulations and deciding who the independent mediator will be; (iii) five complaints before the former Dispute Settlement Committee have still to be resolved and six complaints submitted to the Subcommittee have still to be considered for admissibility; and (iv) until such time as the Subcommittee is operational, the Government is endeavouring to create ad hoc tripartite dialogue round-tables to resolve specific disputes, as in the case of an agri-food enterprise referred to in previous trade union observations.

While duly noting the information supplied by the Government, the Committee notes with ***regret*** that, two years after the creation of the National Tripartite Committee, its Dispute Settlement Subcommittee is still not operating. ***The Committee strongly encourages the tripartite members of the National Tripartite Committee to take the necessary steps to ensure that the Dispute Settlement Subcommittee starts to process in the very near future the specific cases which have been referred to it. The Committee reminds the Government and the social partners that they may continue to avail themselves of the technical assistance from the Office in this respect.***

## Guinea-Bissau

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

The Committee takes due note of the comments provided by the Government in response to observations of the International Trade Union Confederation (ITUC) to the inadequate provisions in the General Labour Act regarding the protection against anti-union discrimination, and to observations of the National Workers Union of Guinea (UNTG-CS) referring to the need to strengthen the capacity of the general labour inspectorate and the courts to enforce the labour legislation. In this regard, the Committee notes the Government's indication that: (i) the existing gaps in the General Labour Act regarding the protection against anti-union discrimination are filled by the application of the Constitution and the Freedom of Association Act (Law No. 08/91), recognizing, however, that its application in practice needs to be increased;

and (ii) regarding the need to strengthen the capacity of the courts to enforce the labour legislation, there was the implementation of a judicial sector reform plan, approved in 2011, but that this reform is suspended since the coup d'état, which took place in 2012, and up to now has not been properly resumed. **Recalling the importance of effective and rapid procedures and sufficiently dissuasive sanctions to prevent and redress all acts of anti-union discrimination and taking note of the Government's indication that there is room for improvement in this regard, the Committee requests the Government to take all necessary measures to reinforce the protection mechanisms against acts of anti-union discrimination. The Committee reminds the Government that it may avail itself of the technical assistance of the Office in this respect.**

*Scope of the Convention. Agricultural workers and dockworkers. Public servants not engaged in the administration of the State.* For several years, the Committee has been requesting the Government to provide information on the status of the draft legislation regarding the guarantee of the right to organize and the right to collective bargaining to agricultural workers and dockworkers. The Committee notes the Government's indication that the General Labour Act, contains provisions on collective bargaining and the adoption of measures to guarantee the above-mentioned rights to agricultural workers and dockworkers and that in the new Labour Code, currently under approval, these matters are adequately addressed. **Underlining that all categories of workers to whom the Convention applies should be clearly and effectively covered by the relevant domestic legislation, the Committee requests the Government to take the necessary measures to ensure the conformity of the new Labour Code with the Convention.**

The Committee has also been requesting the Government to provide information on measures taken to adopt the special legislation which, under section 2(2) of Act No. 8/91 on freedom of association, was to regulate the right to collective bargaining of public servants who are not engaged in the administration of the State. The Committee notes the Government's indication that it will initiate discussions next year on the possibility of adopting a law on the right to collective bargaining of public servants who are not engaged in the administration of the State. **The Committee requests the Government to take all necessary measures, in consultation with the social partners, to ensure that public servants not engaged in the administration of the State enjoy collective bargaining rights under the Convention. It requests the Government to provide information on any progress made in this respect.**

*Promotion of collective bargaining.* In previous comments, the Committee had requested the Government to take specific measures to promote greater use in practice of collective bargaining in the private and the public sectors, and to report any developments in the situation, indicating the number of new agreements concluded and the number of workers covered. The Committee notes the Government's indication that it has developed activities towards the promotion of the right to collective bargaining in the private and the public sectors, such as trainings and lectures. **In the absence of information on the number of new agreements concluded and the number of workers covered by collective agreements, the Committee reiterates its request.**

**The Committee hopes that the new Labour Code will be adopted, without further delay, and that it will be in conformity with the provisions of the Convention. In this respect, the Committee reminds the Government that it can avail itself of the technical assistance of the Office if it so wishes.**

## Guyana

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1966)**

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 contains no reply to its previous comments.

In its previous observation, the Committee referred to the recognition of only those unions claiming 40 per cent support of the workers, as set out in the Trade Union Recognition Act. The Committee takes note of the Government's statement that, at the request of the Trades Union Congress, the Trade Union Recognition Act provided for the recognition of unions that were recognized prior to the Act without having to prove that they had majority support (section 32). All unions benefited from this provision which the Government says is no longer applicable as all certificates applicable under this section have been issued. Given that the representativeness of unions might change, the Committee recalls once again that, if no union covers more than 40 per cent of the workers in the bargaining unit, collective bargaining rights should be granted to all the unions in the unit, at least on behalf of their members (see General Survey of 1994 on freedom of association and collective bargaining, paragraph 241). **The Committee hopes that significant progress respecting this issue will be made in the near future and requests the Government to provide information on the results of the consultative process.**

*Collective bargaining in practice.* **The Committee requests the Government to provide information on the measures taken, in conformity with Article 4 of the Convention, to promote collective bargaining as well as to provide information on the number of collective agreements concluded and in force in the country, indicating the sectors concerned and the number of workers covered.**

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

## Haiti

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

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 1 September 2019, on matters covered by the present comment, as well as allegations of violations of trade union rights in practice. *The Committee requests the Government to provide its comments in this respect.*

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 2020, 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 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 with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. The Committee hopes that this technical assistance will be provided without delay.

The Committee notes the observations of the Association of Haitian Industries (ADIH) received on 31 August 2018. It also notes the observations of the Confederation of Public and Private Sector Workers (CTSP) and the International Trade Union Confederation (ITUC), received on 1 September 2018, as well as the observations of the Trade Union Federation of Haiti (CSH), received on 29 August 2018, which relate to the application of the principles of freedom of association in practice.

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) and the International Trade Union Confederation (ITUC), received on 30 August and 1 September 2017, respectively, which relate to the application of the principles of freedom of association in practice. *The Committee requests the Government to provide its comments in this respect.*

The Committee recalls that for many years it has been requesting the Government to amend the national legislation, and particularly the Labour Code, to bring it into conformity with the provisions of the Convention. The Committee recalls that its comments principally concerned:

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their choosing:*

- the need to amend sections 229 and 233 of the Labour Code in order to ensure that minors who have reached the statutory minimum age for admission to employment are allowed to exercise their trade union rights without parental authorization;
- the need to amend section 239 of the Labour Code so as to allow foreign workers to serve as trade union officials, at least after a reasonable period of residence in the country;
- the need to guarantee for domestic workers the rights laid down in the Convention (section 257 of the Labour Code provides that domestic work is not governed by the Labour Code, and the Act adopted by Parliament in 2009 to amend this provision – the Act has not yet been adopted, but the Government referred to it in its previous reports – also does not recognize the trade union rights of domestic workers).

*Article 3. Right of workers' organizations to organize their activities and formulate their programmes:*

- the need to revise the provisions of the Labour Code on compulsory arbitration in order to ensure that recourse to the latter is only possible to bring an end to a collective labour dispute or a strike in certain circumstances, namely: (1) when the two parties to the dispute so agree; or (2) when a strike may be restricted or prohibited, namely: (a) in the context of disputes involving officials who exercise authority in the name of the State; (b) in disputes in essential services in the strict sense of the term; or (c) in situations of acute national or local crisis, although only for a limited period and solely to the extent necessary to meet the requirements of the situation.

*The Committee expects that with the technical assistance that it is receiving, particularly in view of the resumption of tripartite dialogue for the reform of the Labour Code, the Government will be in a position in its next report to indicate that progress has been achieved in the revision of the national legislation to bring it into full conformity with 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 measures in the near future.*

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

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 1 September 2019, on matters covered by the present comment, as well as allegations of violation of the Convention in practice. *The Committee requests the Government to provide its comments in this respect.*

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 2020, 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 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 with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the

requested assistance before the next session of the International Labour Conference. The Committee hopes that this technical assistance will be provided without delay.

The Committee notes the observations of: (i) the International Trade Union Confederation (ITUC) received on 1 September 2018 denouncing the absence of collective bargaining in the country as a result of the alleged opposition from employers; (ii) the Confederation of Public and Private Sector Workers (CTSP) received on 29 August 2018 and related to elements examined by the Committee in its previous comment; and (iii) the Trade Union Federation of Haiti (CSH), received on 1 September 2018 alleging acts of anti-union discrimination. **The Committee requests the Government to provide its comments thereon.**

The Committee finally notes the observations from the Association of Haitian Industries (ADIH) received on 31 August 2018.

The Committee recalls the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2017, concerning allegations of grave violations of freedom of association in both the public and the private sectors, and particularly in several enterprises in textile export processing zones, where some 200 unionized workers and trade union leaders have been dismissed following a strike called in May 2017 in support of an increase in the minimum wage. The Committee notes in this respect the campaign launched in July 2017 by the International Trade Union Confederation (ITUC) and the Trade Union Confederation of the Americas (TUCA) denouncing violations of freedom of association. The Committee expresses **deep concern** at this information. It notes that these issues are being followed-up by the Better Work programme, a partnership between the ILO and the International Finance Corporation (IFC), a member of the World Bank Group, which has been present in Haiti since 2009. **Recalling that acts of harassment and intimidation carried out against workers or their dismissal by reason of trade union membership or legitimate trade union activities is a serious violation of the principles of freedom of association enshrined in the Convention, the Committee expects that the Government will take the necessary measures to ensure respect for these principles and requests it to provide information on any investigations ordered by the Ministry of Social Affairs and Labour (MAST), and any judicial procedures in this regard.**

**Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.** The Committee recalls that its previous comments concerned the need to adopt a specific provision establishing protection against anti-union discrimination in recruitment practices, and the need to adopt provisions generally affording adequate protection to workers against acts of anti-union discrimination (on the basis of trade union membership or activities) during employment, accompanied by effective and rapid procedures and sufficiently dissuasive sanctions. In this regard, the Committee recalls that, in accordance with section 251 of the Labour Code, “any employer who, in order to prevent an employee from joining a trade union, organizing a trade union or exercising his or her rights as a trade union member, dismisses, suspends or demotes the employee or reduces his or her wages, shall be liable to a fine of 1,000 to 3,000 Haitian gourdes (approximately US\$15–45) to be imposed by the labour tribunal, without prejudice to any compensation to which the employee concerned shall be entitled”. **The Committee requests the Government to ensure that, in the context of the renewal of tripartite dialogue for the reform of the Labour Code, the penalties provided for in the event of anti-union discrimination during employment are increased substantially in order to ensure that they are sufficiently dissuasive. It also requests the Government to ensure the adoption of a specific provision establishing protection against anti-union discrimination at the time of recruitment.**

**Article 4. Promotion of collective bargaining.** The Committee once again recalls the need to amend section 34 of the Decree of 4 November 1983, particularly in relation to its provisions empowering the Labour Organizations Branch of the Labour Directorate of the MAST “to intervene in the drafting of collective agreements and in collective labour disputes with regard to all matters relating to freedom of association”. **The Committee expects that the Government will draw on the technical assistance provided by the Office to amend section 34 of the Decree of 4 November 1983 in order to ensure that the Labour Organizations Branch can only intervene in collective bargaining at the request of the parties.**

**Right to collective bargaining of public servants not engaged in the administration of the State and public employees.** **The Committee requests the Government to provide information on the legislative provisions relating to this subject.**

**Right to collective bargaining in practice.** In its previous comments, the Committee noted that, following the tripartite training course organized by the Office in 2012 in Port-au-Prince for the interested parties in the textile sector, the participants emphasized the need to establish a permanent forum for bipartite dialogue in order to strengthen dialogue between the actors in the sector. **The Committee requests the Government to provide information on this subject, including in light of the most recent events in the textile sector in May 2017.** The Committee notes with **concern** that, according to the CTSP, there are only four collective agreements in force in the country and some of them are not signed by the lawful representatives of workers. **The Committee requests the Government to provide its comments on this subject and to supply information on the measures adopted or envisaged to promote collective bargaining in the country.**

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

## Honduras

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

The Committee notes the observations of the General Confederation of Workers (CGT), the Workers’ Confederation of Honduras (CTH) and the Honduran National Business Council (COHEP), which were sent together with the Government’s report. The Committee further notes the observations of the International Organisation of Employers (IOE), received on 30 August 2019, containing the Employers’ statements made before the 2019 Conference Committee on the Application of Standards. The Committee also notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, and the related replies of the Government. Lastly, the Committee notes the observations of COHEP, supported by the IOE, received separately on 2 September 2019. The Committee notes that all the above-mentioned observations refer to matters examined by the Committee in the context of the present observation.

### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)***

The Committee notes the discussion which took place in June 2019 in the Conference Committee on the Application of Standards (hereinafter: the Conference Committee) concerning the application of the Convention by Honduras. The Committee observes that the Conference Committee, after noting with serious concern the allegations of acts of anti-union violence, including the allegations of physical aggression and murders, and the prevailing climate of impunity, and after also noting the ILO direct contacts mission that took place in May 2019 and the resulting tripartite agreement, asked the Government to apply the tripartite agreement, including with respect to: (i) the establishment of a national-level committee by June 2019 to combat anti-union violence; (ii) the establishment of a direct line of communication between trade unions and relevant public authorities; (iii) the provision of prompt and effective protection to at-risk trade union leaders and members; (iv) the prompt investigation of anti-union violence with a view to arresting and charging those responsible, including the instigators; (v) the transparency of the complaints received through biannual reporting; (vi) the need for awareness-raising in relation to protective measures available to trade unionists and human rights defenders; (vii) the reform of the legislative framework, and in particular the Labour Code and the Penal Code, in order to ensure compliance with the Convention; and, lastly, (viii) the adoption of the operating regulations of the Sectoral Committee for the Handling of Disputes referred to the ILO (MEPCOIT) without prejudice to the complainants' right to file complaints with the ILO supervisory bodies.

#### ***Direct contacts mission of May 2019 and follow-up action***

The Committee duly notes the direct contacts mission that took place in May 2019 on the basis of the conclusions adopted by the Conference Committee in June 2018. The Committee notes with *interest* the tripartite agreement signed on 24 May 2019 at the end of the mission, covering the three following matters: (i) anti-union violence; (ii) legislative reforms; and (iii) reinforcement of the Economic and Social Council (CES) with regard to freedom of association. In this regard, the Committee also notes the technical assistance mission carried out by the Office in September 2019 with a view to initiating support for the implementation of the tripartite agreement.

#### ***Trade union rights and civil liberties***

In its previous comments, after expressing concern at the large number of reported cases of anti-union violence, in particular the murder of 14 members of the trade union movement, and at the limited progress in the corresponding investigations, the Committee urged the Government to intensify its efforts: to investigate all acts of violence against trade union leaders and members, with the aim of identifying those responsible and punishing both the perpetrators and the instigators of these crimes; and to provide prompt and effective protection to at-risk trade union leaders and members. In this regard, the Committee recalls especially that it urged the Government to take the necessary steps to ensure: (i) that all the competent authorities tackle in a coordinated manner, and as a priority, the acts of anti-union violence; (ii) that account is fully and systematically taken in investigations of the possible anti-union nature of murders of members of the trade union movement; (iii) that the exchange of information between the Public Prosecutor's Office and the trade union movement is improved; and (iv) that the budget is increased for both the investigations into acts of anti-union violence and protection schemes for members of the trade union movement.

The Committee notes the information from the Public Prosecutor's Office supplied by the Government concerning 22 cases of alleged anti-union violence, including 16 murders. The Committee observes that this information indicates that: (i) seven cases are being investigated (murders of Sonia Landaverde Miranda, Alfredo Misael Ávila Castellanos, Evelio Posadas Velásquez, Juana Suyapa Posadas Bustillo, Maribel Sánchez, Fredy Omar Rodríguez and Roger Abraham Vallejo); (ii) five cases are before the courts (with regard to the murders of Alma Yaneth Díaz Ortega, Uva Erlinda Castellanos Vigil, José Ángel Flores and Silmer Dionisio George, the corresponding arrest warrants are due to be issued; with regard to the murder of Claudia Larissa Brizuela, the perpetrator has been convicted but has appealed against the conviction); (iii) five cases have been shelved or have been concluded (the judicial proceedings relating to the murders of Manuel Crespo and Ilse Ivania Velásquez Rodríguez have been concluded, while the investigations into the threats against Miguel López, Nelson Nuñez and Víctor Manuel Crespo Murcía have been shelved); and (iv) five cases have not been registered because no legal complaints have been filed in relation to them (deaths of Martin Florencio and Félix Murillo López; alleged abduction of Moisés Sánchez; alleged assault against Hermes Misael Sánchez; and alleged threats against Miguel López).

The Committee also notes the Government's emphasis that the tripartite agreement of May 2019 provides for the establishment, within the CES, of a Committee on Anti-Union Violence comprising representatives from the authorities of the Secretariat-General for Government Coordination, the Ministry of Labour and Social Security and the Ministry of Human Rights, and from the social partners represented in the CES, with judicial entities also invited to participate. The Committee observes that, according to the tripartite agreement, the main functions of the Committee on Anti-Union Violence are: (i) to establish a direct line of communication between the trade unions and the State regarding anti-union violence; (ii) to ensure the participation of trade unions in mechanisms for the protection of human rights defenders; and (iii) to promote effective support for investigations into acts of anti-union violence. The Committee also observes that the tripartite agreement, signed on 24 May 2019, provides for a period of 30 days to establish the Committee on Anti-Union Violence, which will be required to send a status report to the CES 60 days later.

With regard to the protection measures for at-risk members of the trade union movement, the Committee notes the Government's indication that: (i) a tripartite workshop was held within MEPCOIT on the National Protection System, which provides protection to all human rights defenders in the country, with the aim of publicizing it among the social partners; (ii) since 2015, a total of 427 requests for protection measures have been processed; (iii) 210 individuals are currently under the responsibility of the Directorate-General for the National Protection System; and (iv) four trade unionists have been the recipients of protection measures (Miguel Ángel López, Moisés Sánchez, Nelson Geovanny Núñez (who are currently out of the country) and Martha Patricia Riera (whose case file has now been shelved)).

The Committee notes that COHEP states in its observations, concerning the measures taken in relation to anti-union violence that: (i) it is still waiting for the Committee on Anti-Union Violence to start operating; (ii) there is still no formal exchange of information between the Public Prosecutor's Office and the social partners; and (iii) it has still not received any information on the implementation of the National Protection System in relation to members of the trade union movement. The Committee notes the ITUC's indications that: (i) the Network against Anti-Union Violence verified the occurrence of 109 acts of anti-union violence in Honduras between January 2015 and February 2019; (ii) 38 acts of violence against trade unionists, including 11 death threats, were recorded in 2018 alone; (iii) the use of violence by the authorities has increased, as shown by the deployment of the armed forces in a crackdown on protests by teachers and doctors in June 2019; (iv) with regard to the numerous reported murders of members of the trade union movement, only one conviction is known to have been handed down, and this is currently the subject of an appeal; (v) the Public Prosecutor's Office has not taken any action to formalize mutual cooperation to ensure that these cases are processed; and (vi) the trade union movement is not represented in the National Council for the Protection of Human Rights Defenders, which is the body responsible for formulating preventive national policies for the protection of the life and integrity of at-risk population groups, including trade unionists.

The Committee notes the Government's indication, in reply to the observations of the ITUC, that a first meeting of the Committee on Anti-Union Violence took place on 18 September 2019 with representatives of the Government and the social partners, and that the Ministry of Labour has drawn up a draft roadmap for consideration by the Committee on Anti-Union Violence.

The Committee duly notes the various items of information supplied by the Government and the social partners and also the report of the direct contacts mission. The Committee expresses *grave concern* at the persistent allegations of numerous acts of anti-union violence and also at the very small number of cases relating to the murders of members of the trade union movement which have resulted in judicial convictions. In this regard, the Committee also notes with *concern* the indication of the direct contacts mission that it was not given a description of the methods used by the Public Prosecutor's Office to identify the possible anti-union motives of the alleged acts of anti-union violence. While welcoming the establishment of the Committee on Anti-Union Violence, the Committee observes that it has not yet received any information regarding the participation of judicial entities (the Public Prosecutor's Office and the judiciary) in that committee. With regard to the mechanisms and measures of protection for at-risk members of the trade union movement, the Committee notes with *regret* that: (i) the number of trade unionists who have received protection is extremely small by comparison with the very large number of acts of anti-union violence reported by national and international trade union organizations; and (ii) the trade unions do not form part of the National Council for the Protection of Human Rights Defenders, which regulates the protection mechanism.

The Committee considers that the details highlighted above confirm the urgent need for the various state institutions to respond, in a coordinated manner and as a matter of priority given the seriousness of the situation, to the phenomenon of anti-union violence prevailing in the country. *Observing that the establishment of the Committee on Anti-Union Violence can constitute an important first step in this regard, the Committee urges the Government and all the competent authorities to take the necessary measures, including budgetary measures, in the very near future to: (i) ensure due compliance with all elements in the tripartite agreement concerning action against anti-union violence; (ii) ensure the active involvement of all the relevant authorities, especially the Ministry of Human Rights, the Public Prosecutor's Office and the judiciary, in the Committee on Anti-Union Violence; (iii) institutionalize and make effective the participation of the representative trade unions in the National Council for the Protection of Human Rights Defenders; (iv) draw up a special investigation protocol to enable the Public Prosecutor's Office to examine systematically and effectively any anti-union motives behind the acts of violence affecting members of the trade union movement; (v) ensure that the criminal courts give priority treatment to cases of anti-union violence; and (vi) ensure adequate and prompt protection for all at-risk members of the trade union movement. The Committee observes that the Office has made technical assistance available to the Government and requests the Government to provide information on all progress made in this respect. The Committee also requests the Government to continue providing detailed information on criminal investigations and proceedings relating to acts of violence which have affected members of the trade union movement.*

### Legislative issues

*Articles 2 et seq. of the Convention relating to the establishment, autonomy and activities of trade unions.* The Committee recalls that it has been requesting the Government for many years to amend the legislation to ensure conformity with the Convention with respect to the following issues:

- (a) the exclusion from the rights and guarantees of the Convention of workers in agricultural and stock-raising enterprises which do not permanently employ more than ten workers (section 2(1));
- (b) the prohibition of more than one trade union in a single enterprise (section 472);
- (c) the requirement of at least 30 workers to establish a trade union (section 475);
- (d) the requirement that the officers of a trade union must be of Honduran nationality (sections 510(a) and 541(a)), be engaged in the corresponding activity (sections 510(c) and 541(c)) and be able to read and write (sections 510(d) and 541(d));
- (e) the prohibition on strikes called by federations and confederations (section 537);
- (f) the requirement of a two-thirds majority of the votes of the total membership of the trade union organization in order to call a strike (sections 495 and 563);
- (g) the authority of the competent ministry to end disputes in oil industry services (section 555(2));
- (h) government authorization or a six-month period of notice for any suspension of work in public services that do not depend directly or indirectly on the State (section 558); and
- (i) the referral to compulsory arbitration, without the possibility of calling a strike for as long as the arbitration award is in force (two years), of collective disputes in public services that are not essential in the strict sense of the term (sections 554(2) and (7), 820 and 826).

The Committee notes that the tripartite agreement of 24 May 2019 provides that in the context of the CES and on the basis of the relevant pronouncements of the ILO supervisory bodies, the tripartite constituents in the country shall agree to undertake a broad process of discussion and tripartite consensus which, subject to the existence of appropriate conditions, will make it possible to align the labour legislation to the Convention.

The Committee also notes the observations of the social partners concerning the revision of the labour legislation in order to bring it into line with the Convention. The Committee notes COHEP's indication that: (i) it is in favour of amending sections 2, 472, 475, 510 and 541 of the Labour Code, as requested by the Conference Committee in June 2018; (ii) it is still waiting for a reform proposal from the Government; (iii) account should be taken of the content of the discussions on comprehensive reform of the Labour Code held between 1993 and 1995 with the support of the Office and which gave rise to broad consensus (except on the right to strike and *solidarist associations*); and (iv) any reform should be the subject of tripartite consultation and be supported by technical assistance from the Office.

The Committee notes the ITUC's indication that: (i) there is a total absence of effective social dialogue in the country and this obstructs the reaching of tripartite consensus on legislative reform; and (ii) the situation described above raises fears among the national trade unions that the process of reforming the Labour Code may lead to the adoption of legislation which represents a backward step in terms of labour rights and freedom of association. In this regard, the Committee notes the Government's reply to the ITUC's observations indicating that: (i) it is seeking ways to achieve tripartite consensus on the reform of the Labour Code; (ii) to this end, a tripartite workshop was held in the CES on 11 September 2019; and (iii) on 26 September 2019, the Government asked the social partners to state their official position regarding the legislative reforms by 25 October 2019. Lastly, the Committee notes that the direct contacts mission observed that "some aspects of the reforms requested by the ILO supervisory bodies are being questioned by one or other of the social partners."

Observing that it is clear from the above-mentioned details that establishing tripartite social dialogue on the reform of the labour legislation, as envisaged in the tripartite agreement of May 2019, calls for a special effort in terms of building trust between the parties, the Committee once again emphasizes the need to align the labour legislation to the Convention with regard to the various points highlighted in the present observation. ***The Committee therefore requests the Government to move forward as rapidly as possible, with technical support from the Office, in the implementation of the process of tripartite discussions envisaged in the agreement of May 2019 so that it will be able to report progress in the preparation of the requested reforms.***

*Section 335 of the Penal Code.* In its previous comment, observing that some of the acts specified in section 335 of the Penal Code concerning terrorist offences were broadly defined, the Committee asked the Government to take the necessary measures to ensure that the application of this section by the competent authorities did not restrict the right of trade unions to protest and strike in a peaceful manner, and to provide any information on the possible impact of section 335 of the Penal Code on trade union activities. The Committee notes the Government's indication that section 335(b) of the Penal Code concerning the advocacy, glorification or justification of terrorism was repealed by Decree No. 49-2018. While welcoming the above-mentioned repeal, the Committee emphasizes that its comments also referred to section 335(a). ***The Committee therefore repeats its previous requests to the Government relating to the application of section 335 of the Penal Code. Also observing that the direct contacts mission was informed of the adoption on 10 May 2019 of a new Penal Code whose date of entry into force was still the subject of debate in the National Congress, the Committee requests the Government to provide information on the entry into force of the new Penal Code and on any amendments made by that text to the definition of the crime of terrorism.***

*Application of the Convention in practice.* The Committee notes the Government's indication that: (i) legal personality was granted to seven trade union organizations in 2017 (three in the public sector, four in the private sector), eight in 2018 (seven in the private sector, one in the public sector), and eight between January and August 2019 (all in the

private sector); and (ii) pursuant to the Labour Inspection Act adopted on 23 January 2017, a total of 13 fines for violations of freedom of association were imposed between 1 January 2018 and August 2019 (out of an overall total of 261 fines). The Committee also notes that: (i) the CGT and the CTH state in their observations that the Labour Inspection Act is still not being applied in a satisfactory manner on account of the inaction of the Attorney-General's Office in this regard; (ii) COHEP states in its observations that it has still not received the information it requested regarding the fines which the Attorney-General's Office imposed and for which the latter collected payment under the terms of the Labour Inspection Act; and (iii) the direct contacts mission indicates in its report that it received from the trade union federations numerous allegations of violations of freedom of association in practice, especially in the agri-export and education sectors.

Lastly, the Committee notes that the tripartite agreement of May 2019, in its section on strengthening the CES with regard to freedom of association, provides for the setting up of MEPCOIT as the dispute settlement body in the area of labour relations, and for the promotion of the good practices of the bipartite committee for the *maquila* (export processing) sector in other sectors of the economy. The Committee notes in this regard that an ILO technical assistance mission which took place in September 2019 has enabled an exchange of experiences with the moderator of the dispute settlement body of Panama.

*In the light of the above, the Committee requests the Government to accelerate the process of application of the Labour Inspection Act and to give special attention to respect for trade union rights in the agri-export and education sectors. The Committee also hopes that MEPCOIT will start its dispute settlement work in the very near future, so that it can examine the alleged violations of freedom of association reported by the trade union federations to the direct contacts mission. The Committee requests the Government to provide information on this matter and on the promotion of the good practices of the bipartite committee for the maquila sector in other sectors of the economy.*

*Welcoming the commitments made in the tripartite agreement signed at the end of the direct contacts mission and duly noting the technical assistance provided by the Office to contribute to its implementation, the Committee hopes that it will soon note significant progress in the resolution of the serious violations of the Convention which have been recorded for a number of years.*

## Japan

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1965)**

The Committee notes the observations made by the Japanese Trade Union Confederation (JTUC-RENGO), transmitted with the Government's report, and the Government's reply thereto. JTUC-RENGO indicated that it was hopeful at the outset that the Government would address the issues of implementation of the Convention as an enforcement of the "Resolution on Japan's increased contribution to the ILO" adopted on 26 June 2019 by the Diet on the occasion of the Centenary of the Organization. In the Resolution, the Diet noted that "given the role it should be playing to attain the ILO's Fundamental Principles, International Labour Standards, tripartism and reach the goal of decent work is becoming greater and greater, it recognizes a new importance of the role the country should be playing in the ILO, and resolve in the future to continue contributing maximally to the pursuit and actualization of these principles together with the other Member States worldwide ...". However, JTUC-RENGO regrets that the report of the Government reveals an apparent lack of will to resolve issues within the current legal system. The Committee also notes the observations of the Rentai Union Suginami, the Apaken Kobe (Casual/Temporary/Part-time Non-regular Workers' Union), the Rentai Workers' Union, Itabashi-ku Section; and the Union Rakuda (Kyoto Municipality Related Workers' Independent Union), received on 19 July 2019, in relation to the right to organize of local public service employees and their unions. The Committee notes the observations of the International Organisation of Employers (IOE) and the Japan Business Federation (NIPPON KEIDANREN), received on 30 August 2019, and the Government's reply thereto.

*Article 2 of the Convention. Right to organize of firefighting personnel.* The Committee recalls its long-standing comments concerning the need to recognize the right to organize for firefighting personnel. For the past years, the Government had been referring to the operation of the Fire Defence Personnel Committee (FDPC) system, which was presented as an alternative. The role of the FDPC was to examine proposals on working conditions by the personnel and to submit its conclusions to the chief of the fire department. The Government further indicated that surveys, directed to fire defence headquarters, were regularly conducted to gather information on the deliberations and results of the FDPC. The Government also mentioned a specific survey, conducted in January 2018, aiming at assessing the operation of the FDPC system and eventually seeking improvement. The results of the survey were discussed in the Fire and Disaster Management Agency. While the outcome of this survey was that the FDPC system is operated properly, the workers representatives in the Fire and Disaster Management Agency called for improvement in the operation of the FDPC, including procedural transparency, and a more conducive environment for personnel to provide their opinions to the FDPC. The Government indicates that a new implementation policy of the FDPC was consequently developed with the social partners and came into force in April 2019. The Fire and Disaster Management Agency had notified all fire defence headquarters of the new policy requesting them to hold information sessions on the amendments to the policy. Moreover, the Government indicates that, since January 2019, the Ministry of Internal Affairs and Communications held three consultations with the workers representatives where it discussed the Government's opinion that fire defence personnel are considered as police in relation

to the implementation of the Convention. The Government indicates that the Fire and Disaster Management Agency will continue to hold regular consultations in this regard.

The Committee notes the observations of JTUC–RENGO indicating that in discussions held with the All-Japan Prefectural and Municipal Workers' Union (JICHIRO), the Government reaffirmed its views that firefighters are considered as police. The Committee also notes the view of NIPPON KEIDANREN that the reporting line, the organizational managerial order, and the cooperative relationship of fire defense personnel with workers organizations may affect the residents' trust in firefighting, the nation's safety, and security. Therefore, according to NIPPON KEIDANREN, it is necessary to continue carefully reviewing the granting of the right to organize to firefighters.

The Committee however notes the concerns raised by JTUC–RENGO that the Government has not responded directly to the Conference Committee's conclusions from 2018, and that no time-bound action plan was developed with social partners as requested by the Conference Committee. The only development that could be noted is the intention to proceed in consultations between the Ministry of Internal Affairs and Communications and JICHIRO, which have been conducted since July 2018. JTUC–RENGO regrets that the Government continues to allude to old reports of the Committee on Freedom of Association (CFA), which predated the Government's ratification as justification for the status quo, and recalls that the CFA's June 2018 examination of these issues called on the Government to fully grant to firefighters the rights to organize and to collective bargaining.

While it appreciates the information on the new implementation policy for the FDPC, the Committee wishes to emphasize that this policy remains distinct from the recognition of the right to organize under *Article 2* of the Convention. The Committee notes the developments in relation to consultations with JICHIRO initiated in January 2019 and the intention of the Government to maintain this dialogue. ***The Committee once again expresses its firm expectation that continuing consultations will contribute to further progress towards ensuring the right of firefighting personnel to form and join an organization of their own choosing to defend their occupational interests. The Committee requests the Government to provide detailed information on any developments in this regard.***

*Article 2. Right to organize of prison staff.* The Committee recalls its long-standing comments concerning the need to recognize the right to organize of prison staff. The Committee notes that the Government reiterates its position that prison officers are included in the police. The Government also reiterates that this view is accepted by the Committee on Freedom of Association in its 12th and 54th Report. According to the Government, granting the right to organize to the personnel of penal institutions would pose difficulty for the appropriate performance of their duties and the proper maintenance of discipline and order in the penal institutions. However, taking into account the Committee's previous comments, the Government decided to grant meaningful opportunities for the personnel of penal institutions to express their opinions by the following measures: (i) the Ministry of Justice organized meetings for executive officials and representatives of the personnel from each penal institution to the Regional Correctional Headquarters (RCH) to exchange opinions on the improvement of work environments and recreational activities for the personnel; (ii) in the framework of the agenda on "improvement of workplace to prevent resignation", female personnel will be interviewed and their opinions will be examined and reflected in measures for improvement of their work conditions; and (iii) inspectors from the Ministry of Justice and the RCH will provide opportunities to the personnel to express their opinions on their working conditions. The Government recalls that contact persons are designated in penal institutions to hear proposals from the personnel on their proposal to improve their working conditions, and that a Penal Institution Visiting Committee is established in each penal institution to hear the personnel on matters such as the administration of the penal institution, working conditions, work-life balance, paid leave, etc. Finally, the Government asserts that in cases where any emergency occurs in a penal institution, and that it is required to promptly and properly bring the situation under control, by force if necessary, granting the right to organize to the personnel of penal institutions could pose a problem for appropriate performance of their duties and the proper maintenance of discipline and order.

The Committee notes the observations from NIPPON KEIDANREN supporting the Government's view that prison officers should be considered as part of the police under *Article 9* of the Convention.

The Committee also notes the observations from JTUC–RENGO regretting that the Government did not follow up on the Committee's previous comments to consider the different categories of prison officers in determining, in consultation with the social partners, whether they are part of the police. JTUC–RENGO is of the view that: (i) the different measures described by the Government to provide opportunities to the personnel of penal institutions to express their opinions on their working conditions are irrelevant to union rights, including the right to organize. Since they merely constitute exchange of views with individual employees, they cannot be considered as negotiation; (ii) these measures described by the Government serve as substitutes for a meaningful discussion on granting the right to organize to the personnel of penal institutions; (iii) the carrying and use of weapons and administration of judicial police work, as motives for denying the right to organize to prison officers, does not constitute a logical argument. The right to organize is recognized for labour standards inspectors, authorized fisheries supervisors and other employees designated as special judicial police officials similarly to prison officers. Furthermore, the right to organize is recognized for narcotics agents, despite the fact that they are special judicial police officials and are granted the authority to carry and use weapons; and (iv) the increased utilization of private finance initiative (PFI) techniques for correctional institutions and the private consignment of a variety of work, and the fact that the Government is not questioning the right to organize of private sector workers, contradicts the argument put forward by the Government not to grant the right to organize to prison staff because of the need for this category of

workers to be able to maintain control in cases of emergency situation. Finally, JTUC–RENGO observes that regulations granting the right to organize to the private sector workers receiving these consignments has not been disputed. Consequently, for the union, the argument of the Government that it is not appropriate to give the personnel of penal institutions the right to organize, because it poses a problem for appropriate performance of duties and proper maintenance of discipline and order in case of an emergency situation, falls short due to the Government’s own policy on private sector consignment in penal institutions.

The Committee considers it useful to recall that, in previous reports, the Government referred to the following distinction among staff in penal institutions: (i) prison officers with a duty of total operations in penal institutions, including conducting security services with the use of physical force, who are allowed to use small arms and light weapons; (ii) penal institution staff other than prison officers who are engaged directly in the management of penal institutions or the treatment of inmates; and (iii) penal institution staff designated, by virtue of the Code of Criminal Procedure, to carry out duties of the judicial police officials with regard to crimes which occur in penal institutions and who have the authority to arrest, search and seize. While appreciating the information provided by the Government in its report on the new initiatives to give opportunities to the personnel of penal institutions to provide their opinions on various aspects, including on their working conditions, the Committee emphasizes that these measures remain distinct from the recognition of the right to organize under *Article 2* of the Convention. The Committee further observes that the Government has not engaged, despite reiterated calls from this Committee and the Conference Committee, in any consultation with the social partners to consider the different categories of prison officers. ***The Committee therefore urges the Government to take, in consultation with the national social partners and other concerned stakeholders, the necessary measures to ensure that prison officers other than those with the specific duties of the judicial police may form and join an organization of their own choosing to defend their occupational interests, and to provide detailed information on the steps taken in this regard.***

*Article 3. Denial of basic labour rights to public sector employees.* The Committee recalls its long-standing comments on the need to ensure basic labour rights for public service employees, in particular that they enjoy the right to industrial action without risk of sanctions, with the only exception being public servants exercising authority in the name of the State and workers employed in essential services in the strict sense of the term. The Committee notes the general information provided by the Government on its overall approach, which remains to continue to hear opinions from employee organizations. The Committee also notes that, according to the Government, the number of employees in Governmental Administrative Agencies has diminished from 807,000 in March 2003 to 299,000 in March 2019, leaving fewer workers in the public sector without their basic labour rights.

Furthermore, the Committee recalls that the Government refers to the procedures of the National Personnel Authority (NPA) as a compensatory guarantee for public service employees deprived of their basic labour rights. Noting the persistent divergent views on the adequate nature of the NPA as a compensatory measure, the Committee requested the Government to consider, in consultation with the social partners, the most appropriate mechanism that would ensure impartial and speedy conciliation and arbitration. In its report, the Government indicates that the NPA held 213 official meetings with employees’ organizations in 2018. The Government also reiterates that these compensatory measures maintain appropriately the working conditions of public service employees. The Committee notes the observations from NIPPON KEIDANREN supporting the Government’s intention to continue to review carefully measures for an autonomous labour–employer relations system (which in the past the Government had indicated would grant to national public service employees in the non-operational sector the right to negotiate working conditions and to conclude collective agreements).

The Committee also notes the observations from the JTUC–RENGO regretting that the Government’s position on the autonomous labour–employer relations system has not evolved and the Government’s failure to take action as requested by the ILO supervisory bodies. JTUC–RENGO regrets that, despite assertion to the ILO that it would take into consideration the recommendation of the Conference Committee, in a meeting in March 2019, the Government merely gave the same response it has been repeating to employees’ organizations for the last three years, that “there are wide-ranging issues regarding autonomous labour–management relations systems, so while exchanging views with employees organizations, it would like to consider this carefully”. Consequently, JTUC–RENGO expresses its deep concern at the apparent lack of intention on the part of the Government to reconsider the legal system with regard to the basic labour rights of public service employees, and once again requests that the ILO investigate these matters through a mission to the country.

***The Committee urges the Government to indicate any measures taken or envisaged to ensure that public service employees, who are not exercising authority in the name of the State, enjoy fully their basic labour rights, including the right to industrial action. It further urges the Government to indicate any consultation with the social partners concerned for the review of the current system with a view to ensuring effective, impartial and speedy conciliation and arbitration procedures, in which the parties have confidence and can participate at all stages, and in which the awards, once made, will be fully and promptly implemented. In the meantime, the Committee requests the Government to provide information on the public departments and divisions that are no longer classified as Governmental Administrative Agencies since March 2003, accounting for the reduction in the number of workers in the public sector without their basic labour rights. It also requests the Government to continue to provide detailed information on the functioning of the NPA recommendation system.***

Furthermore, the Committee notes the observations of Rentai Workers’ Union and Apaken Kobe referring to the possible impact of the amendment of the Local Public Service Act to be in force from April 2020 on their right to organize,

and stating that: (i) non-regular local public service employees and their unions would not be covered by the general labour law that provides for basic labour rights and their ability to appeal to the labour relations commission in case of alleged unfair labour practice; (ii) the legal amendment, which aimed at limiting the use of part-time staff on permanent duties, will have the effect of increasing the workers stripped of their basic labour rights; and (iii) these situations further call for the urgent restoration of basic labour rights to all public service employees. While it notes the Government's reply asserting that the change of status will help improve the treatment of part-time employees, the Committee observes that these amendments have the effect of broadening the category of public sector workers that will no longer be fully assured of their rights under the Convention. ***The Committee therefore urges the Government to expedite its consideration of the autonomous labour relations system so as to ensure that municipal unions are not deprived of their long-held trade union rights through the introduction of these amendments. It requests the Government to provide detailed information on the measures taken or envisaged in this regard.***

***Recalling the Conference Committee conclusions, including the lack of meaningful progress in taking necessary measures regarding the autonomous labour-employer relations system, the Committee strongly encourages the Government to indicate any measures taken or envisaged to elaborate, in consultation with the social partners concerned, a time-bound plan of action to implement the recommendations made above and to report on any progress made in this respect.***

## Kazakhstan

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

The Committee notes the observations of the International Organisation of Employers (IOE), received on 29 August 2019, containing the Employers' statements made before the 2019 Conference Committee on the Application of Standards (hereinafter, the Conference Committee).

The Committee further notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, referring to the issues raised by the Committee below, as well as the observations received on 14 November 2019, alleging the imprisonment, on 16 October 2019, of Mr Erlan Baltabay, the leader of the Independent Oil and Energy Workers' Union. The Committee also notes the observations of the Federation of Trade Unions of Kazakhstan (FPRK) on the application of the Convention, received on 18 November 2019, expressing its concern over the situation of Mr Baltabay. ***Expressing its concern over this allegation, the Committee requests the Government to provide its comments thereon.***

The Committee recalls that it had previously noted with deep concern the ITUC 2018 allegation of assault and injuries suffered by the chairperson of a trade union of workers of the fuel and energy complex in the Karaganda region and urged the Government to investigate the matter without delay and to bring the perpetrators to justice. The Committee notes the information provided by the Government confirming the assault of the chairperson of the Trade Union of Workers in the Fuel and Energy Complex of Shakhtinsk, Mr Dmitry Senyavsky, by unknown persons on 10 November 2018. The Government indicates that pre-trial proceedings were opened under section 293(2)(1) of the Criminal Code (disorderly conduct). According to a forensic medical report, Mr Senyavsky suffered mild damages to his health. However, the pre-trial investigation has been suspended pursuant to section 45(7)(1) of the Criminal Procedure Code (failure to identify the person who committed a crime) until new circumstances (evidence) come to light. ***The Committee requests the Government to continue to provide information on the developments in this case.***

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussion that took place in the Conference Committee in June 2019 concerning the application of the Convention. The Committee observes that the Conference Committee regretted the persistent lack of progress since the last discussion of the case in June 2017, in particular with regard to the serious obstacles to the establishment of trade unions without previous authorization in law and in practice, and the continued interference with the freedom of association of employers' organizations. The Conference Committee took note of the ILO high-level tripartite mission (HLTM) that took place in May 2018 and the resulting road map. The Committee notes that the Conference Committee called upon the Government to: (i) amend the provisions of the Law on Trade Unions consistent with the Convention, on issues concerning excessive limitations on the structure of trade unions which limit the right of workers to form and join trade unions of their own choosing; (ii) refrain from imposing restrictions on the right to hold elected positions in trade unions and the right to freedom of movement for engaging in legitimate trade union activities; (iii) ensure that the allegations of violence against trade union members are investigated, and where appropriate, impose dissuasive sanctions; (iv) review, in consultation with the social partners, the existing law and practice regarding re-registration of trade unions with a view to overcoming the existing obstacles; (v) amend, in consultation with the most representative, free and independent employers' organizations, the provisions of the Law on the National Chamber of Entrepreneurs (NCE), and related regulations, in a manner that would ensure the full autonomy and independence of free and independent employers' organizations, without any further delay. In particular remove the provisions on the broad mandate of the NCE to represent

employers and accredit employers' organizations by the NCE; (vi) ensure that the Confederation of Independent Trade Unions of Kazakhstan (KNPRK) and its affiliates enjoy the full autonomy and independence of a free and independent workers' organization, without any further delay, and are given the autonomy and independence needed to fulfil their mandate and to represent their constituents; (vii) confirm the amendment to legislation to permit judges, firefighters and prison staff, who do not occupy a military rank, to form and join a workers' organization; (viii) adopt legislation to ensure that national workers' and employers' organizations are not prevented from receiving financial assistance or other assistance by international organizations. In this regard, provide information on the legal status and contents of its recommendation regarding the authorization of workers' and employers' organizations to receive financial assistance from international organizations; and (ix) implement the 2018 road map in consultation with the social partners as a matter of urgency. The Conference Committee decided to include its conclusions in a special paragraph of the report.

The Committee notes the Government's indication that a draft law to amend certain legislative acts has been submitted to Parliament and that a working group of the Mazhilis considered the draft on six occasions. The Committee takes note of a copy of the proposed amendments to the Law on Trade Unions (2014), the Labour Code (2015), the Law on the NCE, the Criminal Code, the Code of Criminal Procedure and the Law on Public Associations contained in this draft law.

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations. Prison staff and firefighters.* The Committee duly notes the information provided by the Government regarding the right to unionize of firefighters and prison staff.

*Right to establish organizations without previous authorization.* The Committee recalls that following the entry into force of the Law on Trade Unions, all existent unions had to be re-registered. It further recalls that it had noted with concern that the KNPRK affiliates were denied registration/re-registration, which ultimately led to its liquidation. The Committee recalls the Government's indication that a helpline regarding the issues of trade union registration and activities had been established at the level of the Ministry of Labour and Social Protection (MLSP) in June 2018, as per the road map. The Committee recalls, however, the ITUC allegation that the helpline lacked the capacity and mandate to fulfil its role. The ITUC referred in this respect to the denials to register organizations which previously formed the KNPRK. The Committee requested the Government to provide its comments thereon. Further in this respect, the Committee recalls that it had noted that several pieces of legislation regulated registration and that some trade unions were denied re-registration because their by-laws were found not to be in conformity with either one or all of the applicable laws. The Committee therefore requested the Government to engage with the social partners to review the difficulties identified by trade unions seeking registration with a view to finding appropriate measures, including legislative, to fully give 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 there are three national associations of trade unions in the country, which bring together around 3 million workers or half of all employees in Kazakhstan, 39 sectoral, 19 regional, 635 local and over 20,000 primary trade union organizations. All trade unions may be established without previous authorization. Primary trade unions do not need to register. If a trade union wishes to become a legal entity (which entitles it to open a bank account), it must register with the justice authorities. The latter has the following powers to determine the status of trade unions: (1) to verify compliance with the legislation of documents submitted for registration; and (2) to issue certificates of state registration. In the event that the registering authority identifies shortcomings, it issues a reasoned refusal, citing the applicable legislative provision, as per section 11 of the Law on the State Registration of Legal entities and the Official Registration of Branches and Representative Offices. If the trade union in question rectifies these shortcomings, it may re-submit its application for registration, appending all necessary documents. The Government points out that this can be done for an unlimited number of times. The Committee further notes the Government's indication that the MLSP and the Ministry of Justice have held a series of sessions for national federations of trade unions providing information on the registration procedure and seeking to identify problems that arise during registration. As a result, a working group has been set up to examine problems arising during registration and recommendations (step-by-step instructions) have been drawn up regarding trade union registration. These have been sent to trade unions for use in their work. The Government indicates that it has made every effort to provide guidance on registration to all trade unions and problems now occur only in isolated cases. While taking note of this information, the Committee *regrets* that the Government provides no information regarding the current situation of the KNPRK. ***The Committee requests the Government to provide information on the current status of the KNPRK and reiterates in this respect the need to ensure that the KNPRK and its affiliates enjoy the full autonomy and independence of a free and independent workers' organization, without any further delay, and are given the autonomy and independence needed to fulfil their mandate and to represent their constituents.***

*Right to establish and join organizations of their own choosing.* The Committee had previously requested the Government to amend the following sections of the Law on Trade Unions so as to ensure the right of workers to freely decide whether they wish to associate or become members of a higher-level trade union structure and to lower thresholds requirements to establish higher-level organizations:

- sections 11(3), 12(3), 13(3) and 14(4), which require, under the threat of deregistration pursuant to section 10(3), the mandatory affiliation of sector-based, territorial and local trade unions to a national trade union association within six months following their registration, so as to ensure the right of workers to freely decide whether they wish to associate or become members of a higher-level trade union structure; and

- section 13(2), which requires a sector-based trade union to represent no less than half of the total workforce of the sector or related sectors, or organizations of the sector or related sectors, or to have structural subdivisions and member organizations on the territory of more than half of all regions, cities of national significance and the capital, with a view to lowering this threshold requirement.

The Committee notes with *interest* the Government's indication that the draft law, if adopted, would amend sections 11, 12, 13 and 14 of the Law on Trade Unions so as to remove the mandatory affiliation of trade unions to a higher-level association of trade unions. The Committee further notes the Government's indication that the draft law seeks to simplify the conditions for confirming the status of a trade union as a national, sectoral or regional organization by extending the time limit for this procedure from six months to one year. ***The Committee expects that the legislative process will be concluded without further delay.***

The Committee notes that the draft law proposes to modify the threshold requirements to stipulate that “a sectoral trade union should have structural divisions, member organizations in a territory that includes more than half the number of regions, cities of republican significance and the capital. Workers of small businesses have the right to create a sectoral trade union if there are structural divisions, affiliates in a territory that includes more than half the number of regions, cities of republican significance and the capital”. ***The Committee requests the Government to provide information on all developments on this matter.***

*Law on the National Chamber of Entrepreneurs (NCE).* The Committee had previously urged the Government to amend the Law on the NCE and any other relevant legislation so as to ensure the full autonomy and independence of the free and independent employers' organizations. The Committee recalls, in particular, that the Law calls for the mandatory affiliation to the NCE (section 4(2)). The Committee had further noted the difficulties encountered by the Confederation of Employers of Republic of Kazakhstan (KRRK) in practice, which stem from the mandatory membership and the NCE monopoly, and in particular, that the accreditation of employers' organizations by the NCE and the obligation imposed in practice on employers' organizations to conclude an annual agreement (a model contract) with the NCE, meant, for all intents and purposes, that the latter approved and formulated the programmes of employers' organizations and thus intervened in their internal affairs. In this respect, the Committee had noted that there was an agreement to amend section 148(5) of the Labour Code so as to delete reference to the NCE's authority to represent employers in the social dialogue at the national, sectoral and regional levels and that the road map provided for the measures to be taken to address the above concerns culminating with the submission of the draft law to amend various pieces of legislation, including the Law on the NCE to Parliament in November 2018.

The Committee notes the Government's indication that the accreditation by the NCE is an internal procedure, which takes place on a voluntary basis. The Government stresses that this procedure is not an authorization procedure and does not prevent employers' organizations from operating. Moreover, the compulsory NCE membership is not imposed on associations. The Government reiterates that the proposed amendment to the Labour Code outlined above is reflected in the draft law and thus, the NCE will withdraw from the National Tripartite Commission on Social Partnership and the Regulation of Social and Labour Relations, sectoral commissions (20 sectors) and regional commissions (16 regions). Accordingly, the NCE will no longer be a signatory to the General Agreement between the Government and national associations of employers and workers, sectoral agreements and regional agreements. The Committee notes this proposed amendment with *interest*. The Committee further notes with *interest* the proposed amendment to section 9 of the Law on the NCE, which would exclude explicitly from the definition of the representative functions of the NCE the right to represent entrepreneurs in the system of social partnership as set out in the Labour Code. ***The Committee expects that section 148(5) of the Labour Code as well as section 9 of the Law on the NCE will be amended as indicated without further delay thereby ensuring that the NCE and its structures at the national, sectoral and regional levels are no longer employers' representatives in social dialogue. The Committee requests the Government to provide information on all developments in this regard.***

The Committee recalls that it had also requested the Government to provide its comments on the 2018 observations of the KRRK which alleged that there was no real national dialogue regarding the implementation of the road map and that the implementation of the road map required a comprehensive approach, including modifications to the Entrepreneurship Code and beyond the proposed amendment to the Labour Code, which did not address the issue of financial and institutional dependency of employers' organizations from the NCE. ***The Committee once again requests the Government to provide its comments thereon.***

*Article 3. Right of organizations to organize their activities and to formulate their programmes.* The Committee had previously requested the Government to provide information on the status of its proposal to amend the Labour Code regarding the right to strike by making section 176(1)(1) (pursuant to which strikes shall be deemed illegal when they take place at entities operating hazardous production facilities), more explicit as to which facilities were considered to be hazardous. The Committee had noted that currently, “hazardous production facilities” are listed in sections 70 and 71 of the Law on Civil Protection, and can be further determined pursuant to Order No. 353 of the Minister of Investment and Development (2014).

The Committee notes the Government's indication that in July and August 2019, the Ministry carried out consultations with the relevant state bodies and national associations of workers and employers regarding additional measures that could

be developed to ensure respect for freedom of association. The Committee notes that the proposed amendments transmitted by the Government aim at modifying section 176 of the Labour Code so as to explicitly refer to certain services (aviation, railway, automobile and public transport, and communication) as vital and where a strike is deemed illegal, unless the necessary minimum level of services, previously agreed upon by the workers' representatives and the local executive authorities, is maintained during a strike. ***The Committee expects that the legislative process will be concluded without further delay and requests the Government to provide information on all developments in this regard.***

The Committee recalls that it had previously noted with concern that trade union leaders have been convicted and sentenced in application of section 402 of the Criminal Code (2016), according to which an incitement to continue a strike declared illegal by the court was punishable by up to one year of imprisonment and in certain cases (substantial damage to rights and interest of citizens, mass riots, etc.), up to three years of imprisonment. It recalled that no penal sanctions should be imposed against a worker for having carried out a peaceful strike and thus for merely exercising an essential right, and therefore that measures of imprisonment or fines should not be imposed on any account. Such sanctions could be envisaged only where, during a strike, violence against persons or property, or other serious infringements of penal law have been committed, and can be imposed exclusively pursuant to legislation punishing such acts (see the 2012 General Survey on the fundamental Conventions, paragraph 158). The Committee requested the Government to take the necessary measures to amend section 402 of the Criminal Code to bring it into line with this principle.

The Committee notes the Government's indication that the Ministry undertook a series of consultations with the law enforcement authorities, as well as national associations of workers and employers regarding section 402 of the Criminal Code. Proposals to amend the penalties set out in section 402 of the Criminal Code were supported by the state bodies. The Committee notes that the proposed amendments intend to amend section 402 of the Criminal Code and the relevant provisions of the Code of Criminal Procedure so as to categorize the deeds described in section 402 as delinquent acts (and no longer as criminal acts), and to lower the penalties (both fines and imprisonments) accordingly. The Committee notes, in particular, that the imprisonment for up to one year, and three years in specific cases described above, is to be replaced by an arrest for the duration of up to 50 days and two years of imprisonment, respectively. While welcoming the proposed amendments aimed at reducing the penalties, the Committee is nevertheless of the opinion that simply calling for a strike action, even one declared illegal by the courts, should not result in arrest for up to 50 days and that in general, sanctions should be envisaged only where, during a strike, violence against persons or property, or other serious infringements of penal law have been committed. ***The Committee expects that the additional amendments will be further reviewed taking into account the above and will be submitted to Parliament in the near future. The Committee requests the Government to provide information on all developments in this regard.***

*Article 5. Right of organizations to receive financial assistance from international organizations of workers and employers.* The Committee had previously requested the Government to adopt, in consultation with the social partners, specific legislative provisions which clearly authorize workers' and employers' organizations to benefit, for normal and lawful purposes, from the financial or other assistance of international workers' and employers' organizations. The Committee recalls that the road map provides for the drafting of an explanatory note on this issue and on the procedure to follow for public distribution. Noting the Government's indication that a Recommendation on receiving financial assistance from international organizations had been drafted, the Committee requested the Government to provide a copy thereof, and to provide information on steps taken to adopt this Recommendation as a matter of law.

The Committee notes the Government's indication that the legislation in force does not impede the conduct by trade unions of activities (such as seminars on gender and youth policy, freedom of association, collective bargaining and resolution of industrial disputes) financed by international organizations. Financial assistance aimed at undermining the constitutional order, sovereignty and independence of the country is, however, forbidden. The Government indicates that between 2013 and 2017 the Federation of Trade Unions of the Republic of Kazakhstan held 101 international events (such as seminars, meetings, conferences and summer schools) jointly with the ILO and the ITUC. The Government further indicates that the legislation has been explained to all national associations of trade unions, which have also received a copy of the above-mentioned Recommendation. The Committee notes that the Recommendation outlines the Government's explanation above. The Committee welcomes that the draft law intends to amend the Law on Trade Unions by adding provisions on the right of trade unions to cooperate with international trade union organizations and, jointly with international organizations, to organize and conduct activities, as well as to carry out projects aimed at defending the rights and interests of workers in accordance with the legislation of Kazakhstan. ***The Committee expects that the Law on Trade Unions will be amended without delay and requests the Government to provide information on the developments in this regard.***

## Kyrgyzstan

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1992)***

The Committee notes the observations of the Kyrgyzstan Federation of Trade Unions of (KFTU), received on 28 August 2019. According to information from the KFTU, a new draft Law on Trade Unions, initiated by several members of Parliament, was adopted in the first reading. The KFTU considers that the draft violates the national Constitution and the

Convention as it regulates in detail the internal functioning of unions. It further alleges acts of interference by the authorities during this process. **The Committee requests the Government to provide its comments thereon.**

The Committee takes note of the draft Law on Trade Unions. It notes with **concern** that in addition to regulating in detail the internal functioning of unions by imposing excessive mandatory requirements for trade union by-laws and elections, it imposes a trade union monopoly. The Committee notes the Government's indication that it has prepared, for submission to Parliament, its comments on the draft Law outlining provisions, which, in its opinion, are not in conformity with national legislation and the Constitution and international labour standards. **The Committee requests the Government to make every effort to ensure that the Law on Trade Unions when adopted is in full conformity with the Convention and to provide information on all developments in this regard. The Committee further requests the Government to ensure that the social partners are fully consulted in the process of adoption of legislation affecting their rights and interests.**

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

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

## Liberia

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

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 2020, 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 2017 concerning issues that have been raised since 2012 and which are examined in the present observation, as well as matters that are being dealt with by the Committee on Freedom of Association in the framework of Cases Nos 3081 and 3202.

**Legislative developments.** The Committee recalls that for many years it has been commenting on the need to amend or repeal the following provisions of Title 18 of the Labour Act, which are not in conformity with the Convention: (i) section 4506, prohibiting workers in state enterprises and the public administration from establishing trade unions; (ii) section 4601-A, prohibiting agricultural workers from joining industrial workers' organizations; and (iii) section 4102(10) and (11), providing for the supervision of trade union elections by the Labour Practices Review Board. The Committee notes with **satisfaction** that, as indicated by the Government in its report, Title 18 of the Labour Practices Law has been repealed by the Decent Work Act 2015 (the Act) which came into force on 1 March 2016. The Committee wishes to raise the following points with respect to the Act.

**Scope of application.** The Committee notes that section 1.5(c)(i) and (ii) of the Act excludes from its scope of application work falling within the scope of the Civil Service Agency Act. The Committee recalls, in this respect, that in its previous comment, it had noted the Government's indication that the legislation guaranteeing the right of public employees to establish trade unions (the Public Service Ordinance) was being revised with the technical assistance of the Office. The Committee notes that no new information has been provided by the Government in that respect. **The Committee expects that the revision of the Ordinance will make it possible to give full effect to the Convention in relation to public employees and requests the Government to report any developments in this regard.**

The Committee notes that section 1.5(c)(i) and (ii) of the Act also excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. **Noting that no information has been provided by the Government on the legislation guaranteeing the right to establish and join organizations to those working on vessels, the Committee requests the Government to indicate how maritime workers, including trainees, are ensured the rights enshrined in the Convention, including any laws or regulations adopted or envisaged covering this category of workers.**

**Article 1 of the Convention.** *Right of workers, without distinction whatsoever, to establish and join organizations.* The Committee notes that section 2.6 of the Act provides that all employers and workers, without distinction whatsoever, may establish and join organizations of their own choosing without prior authorization, and subject only to the rules of the organization concerned. The Committee also notes that section 45.6 of the Act recognizes the right of foreign workers to join organizations. **The Committee requests the Government to indicate whether, in addition to the right to join organizations, foreign workers are entitled to establish organizations of their own choosing.**

**Article 3.** *Determination of essential services.* The Committee notes that the National Tripartite Council (established by virtue of section 4.1 of the Act) has the function to identify and recommend to the Minister services that are to be considered essential (section 41.4(a) of the Act). The Committee notes with **interest** that essential services are defined in section 41.4 of the Act as services which, if interrupted, would endanger the life, personal safety or health of the whole or any part of the population. The section also provides that the President shall, upon considering the recommendations of the National Tripartite Council, decide whether or not to designate any part of a service as an essential service and publish a notice of designation of that essential service in the *Official Gazette*. The Committee notes that the final decision on the determination of a service as essential rests with the President, who is neither bound by nor obliged to follow the recommendations of the National Tripartite Council. **The Committee requests the Government to indicate whether, in determining services which are to be considered essential, the President is bound by the definition of essential services set out in section 41.4 of the Act. The Committee also requests the Government to provide information on how section 41.4 has operated in practice with respect to the designation of essential services.**

**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: 1962)

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 2020, 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 2017 concerning issues examined in the present observation as well as matters that are being dealt with by the Committee on Freedom of Association in the framework of Cases Nos 3081 and 3202.

*Legislative developments.* The Committee notes the Government's indication that the Decent Work Act adopted in 2015 came into force on 1 March 2016 and that it ensures the rights enshrined in the Convention. The Committee recalls that for many years it has been commenting on the need to adopt legal provisions guaranteeing: (i) adequate protection against anti-union discrimination at the time of recruitment and during the employment relationship, accompanied by sufficiently effective and dissuasive sanctions; (ii) adequate protection for workers' organizations against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions; and (iii) the right to collective bargaining for employees in state-owned enterprises and public servants who are not engaged in the administration of the State.

*Scope of the Convention.* The Committee notes that section 1.5(c)(i) and (ii) of the Decent Work Act of 2015 (the Act) excludes from its scope of application work falling within the scope of the Civil Service Agency Act. The Committee recalls, in this respect, that in its previous report, the Government had indicated that the legislation guaranteeing the right of collective bargaining of public servants and employees in state enterprises (Ordinance on the public service) was under revision with the technical assistance of the Office. The Committee notes that no information has been provided by the Government in that respect. ***The Committee expects that the revision of the Ordinance on the public service will make it possible to give full effect to the Convention in relation to employees in state enterprises and public servants not engaged in the administration of the State and requests the Government to report any developments in this regard.***

The Committee notes that section 1.5(c)(i) and (ii) of the Act also excludes from its scope of application, officers, members of the crew and any other persons employed or in training on vessels. ***Noting that no information has been provided by the Government on legislation guaranteeing the right of collective bargaining to maritime workers, the Committee requests the Government to indicate how the rights enshrined in the Convention apply to these workers, including any laws or regulation, adopted or envisaged, covering them.***

*Article 1 of the Convention. Adequate protection against anti-union discrimination.* The Committee recalls that for many years it has been requesting the Government to take measures to introduce in the legislation provisions that would ensure an effective protection against anti-union discrimination. The Committee notes that section 2.6 of the Act provides that the right to form organizations and to bargain collectively are fundamental rights and that section 2.7 prohibits discrimination in the exercise of the rights conferred by the Act. The Committee also notes that section 2.11 of the Act provides for the protection of workers' freedom of association (stipulating, inter alia, that no person may prejudice or threaten to prejudice a worker because of past, present or anticipated membership of an organization of workers) and that section 2.12 of the Act provides for the protection of employers' freedom of association. The Committee notes that sections 2.11 and 2.12 provide that they operate in addition to, and to the fullest extent possible together with section 2.7 of the Act, under which discrimination overall is prohibited. The Committee notes that, while the Act does not expressly prohibit termination of employment based on anti-union discrimination, section 14.8 prohibits termination because of the exercise of rights conferred by the Act. It also notes that complaints for the violation of the rights guaranteed in the Act can be lodged to the Ministry and that the Ministry's decisions can be appealed before the Labour Court (Chapters 9 and 10 of the Act). ***Emphasizing the importance of ensuring effective protection against acts of anti-union discrimination and of providing for sufficiently dissuasive sanctions in this regard, the Committee requests the Government to provide further information on the sanctions applied in cases of acts of anti-union discrimination. It also requests the Government to provide statistics on the number of cases of discrimination examined, the duration of the procedures and the type of penalties and compensation ordered.***

*Article 2. Adequate protection against acts of interference.* The Committee recalls that for many years it has been requesting the Government to take measures to introduce in the legislation provisions guaranteeing adequate protection for workers' organizations against acts of interference by employers and their organizations, including sufficiently effective and dissuasive sanctions. The Committee notes with *regret* that the Act still contains no specific provisions on protection against interference. 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 (see the 2012 General Survey on the fundamental Conventions, paragraph 194). ***The Committee requests the Government to take the necessary measures to introduce in the legislation a prohibition of acts of interference as well as rapid appeal procedures and dissuasive sanctions against such acts. It requests the Government to report on any development in this regard.***

*Article 4. Promotion of collective bargaining.* The Committee notes that section 37.1(a) of the Act provides that trade unions that represent the majority of the employees in an appropriate bargaining unit are able to seek recognition as exclusive bargaining agents for that bargaining unit. It also notes that a trade union that no longer represents the majority of the employees in the bargaining unit must acquire majority within three months, if not, the employer shall withdraw recognition from that trade union (section 37.1(k)). The Committee recalls that while it is acceptable that the union which represents the majority or a high percentage of workers in a bargaining unit should enjoy preferential or exclusive bargaining rights, it considers that 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 (see General Survey, op. cit., paragraph 226). ***The Committee requests the Government to indicate whether, if no union represents the majority of the employees in an appropriate bargaining unit, the minority unions in the same unit enjoy collective bargaining rights, at least on behalf of their members.***

*Settlement of disputes affecting national interest.* The Committee notes that section 42.1 of the Act provides that if the President considers it in the national interest, the President may: (i) request the Minister to appoint a conciliator to conciliate any dispute, or potential dispute, between employers and their organizations on the one hand and employees and their trade unions on the other hand; or (ii) in consultation with the National Tripartite Council, appoint a panel of persons representing the interests of employers, employees and the State to investigate any industrial conflict or potential conflict for the purpose of reporting and

making recommendations to the President. *Recalling that, pursuant to Article 4 of the Convention, the settlement of collective disputes must be consistent with the promotion of free and collective bargaining, the Committee requests the Government to provide additional information with respect to the prerogatives under section 42.1 of the Act, and to indicate the extent to which this provision provides the parties with complete freedom of collective bargaining and does not alter the principle of voluntary arbitration.*

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

## Mozambique

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

*Articles 1 and 2 of the Convention. Protection against anti-union discrimination and interference.* The Committee had requested the Government to provide specific information on the number of complaints, including judicial complaints, concerning acts of anti-union discrimination and interference and the number of fines imposed, as well as on observations made by the International Trade Union Confederation (ITUC) regarding acts of anti-union discrimination in export-processing zones. The Committee notes the Government's indication that: (i) in 2018, the Labour Mediation and Arbitration Centres processed 7,040 cases, comprising 6,870 cases and 170 cases that had been filed in the previous year and of these, 6,381 were resolved; (ii) peaceful solutions were reached through the signing of agreements between the parties in 5,396 of the cases resolved through mediation; and (iii) agreements signed through the mediation process have enabled 271 workers to return to their positions and permitted the payment of compensation and salaries in the amount of 57,731,225 Mozambican meticals. *Noting once again the absence of specific information in the Government's report in response to its previous requests, the Committee requests the Government to take all the necessary measures so as to be able to provide specific statistics on the number of complaints, including judicial complaints, related to acts of anti-union discrimination and interference, and the number of fines imposed. The Committee recalls that the Government can avail itself of the technical assistance of the Office.*

## North Macedonia

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)** (ratification: 1991)

*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.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1991)**

*Article 4 of the Convention. Promotion of collective bargaining.* The Committee notes the information provided by the Government concerning the outcome of the "Promoting Social Dialogue" project implemented from October 2014 until April 2017. It notes that the Government indicates that: (i) training for collective bargaining skills was realized in the framework of this project in six sectors (transport, trade, tourism, agriculture, construction, and textile); (ii) 80 per cent of the planned measures from the Tripartite Action Plan for the promotion of collective bargaining were realized; and (iii) the new Labour Law and the special Law on Worker and Employer Organizations and Collective Bargaining are currently under preparation. *Noting that the mentioned draft laws gave rise to technical comments from the Office, the Committee requests the Government to inform on the adoption process of the new Labour Law and the special Law on Worker and Employer Organizations and Collective Bargaining*

*Collective bargaining in practice.* The Committee notes the statistical data provided by the Government concerning the number of collective agreements concluded in both the public and private sectors and the number of workers covered (respectively: 102,506 workers from six concluded collective agreements and 51,388 workers from ten concluded collective agreements). The Committee notes with *interest* that since 2014 and the beginning of the "Promoting Social Dialogue" project, the rate of workers covered by collective agreements moved from 21.8 per cent to 24.6 per cent and that the number of collective agreements signed at the enterprise level increased by 29 per cent. *The Committee invites the Government to keep promoting collective bargaining at all levels and to keep providing information on the number of collective agreements signed and the percentage of the workforce covered.*

## **Papua New Guinea**

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1976)**

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

*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.**

## Philippines

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1953)**

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019, of the International Transport Workers' Federation (ITF) received on 3 September 2019 and of Education International (EI) received on 20 September 2019, referring to matters addressed below. **The Committee requests the Government to provide its reply thereto.**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussion that took place in the Conference Committee on the Application of Standards (Conference Committee) in June 2019 concerning the application of the Convention. The Committee observes that the Conference Committee called upon the Government to: (i) take effective measures to prevent violence in relation to the exercise of workers' and employers' organizations legitimate activities; (ii) immediately and effectively undertake investigations into the allegations of violence in relation to members of workers' organizations with a view to establishing the facts, determining culpability and punishing the perpetrators; (iii) operationalize the monitoring bodies, including by providing adequate resources, and provide regular information on these mechanisms and on progress on the cases assigned to them; and (iv) ensure that all workers without distinction are able to form and join organizations of their choosing in accordance with *Article 2* of the Convention. The Committee also called on the Government to accept a high-level tripartite mission before the next International Labour Conference, and to elaborate in consultation with the most representative workers' and employers' organizations, a report on progress made for the transmission to this Committee by 1 September 2019. **While noting the Government's request to defer the high-level tripartite mission due to the thorough administrative and technical preparations that have to be undertaken in order to ensure attainment of responsive and substantive outcomes, the Committee expresses the hope that the Government will take the necessary arrangements to enable the high-level tripartite mission requested by the Conference Committee to take place before the next International Labour Conference.**

#### **Civil liberties and trade union rights**

*2016 ITUC observations.* The Committee notes the Government's reply to earlier observations from the ITUC, providing an update on the status of the investigations into the alleged assassination of two trade union leaders in 2016 and clarifying that the activities conducted in Compostela Valley, Mindanao were visits under the Community Support Programme of the Armed Forces of the Philippines (AFP), a peace and development effort aimed at establishing, developing and protecting conflict-resilient communities. The Committee further notes the Government's general statement that the policy and programme reforms on freedom of association and collective bargaining implemented by the Government contributed to reduced incidence of labour disputes and labour-related violence since 2011 and that this decline can also be attributed to the continuous efforts towards raising awareness and strengthening the capacity of all relevant Government institutions.

*New allegations of violence and intimidation.* The Committee notes, however, with **deep concern** the grave allegations of violence and intimidation of trade unionists communicated by the ITUC and EI, including: (i) assassination of 23 trade union leaders in 2018 and 2019, as well as several attempted assassinations documented by the Center for Trade Union and Human Rights (CTUHR); (ii) death threats targeting trade union leaders in the education sector in January and February 2019, as well as profiling, surveillance, harassment and red-tagging by the Philippine National Police (PNP) and AFP officials; (iii) violent dispersal of a number of workers' strikes and protests in Marilao, Bulacan in June and July 2018, resulting in serious injuries, arrests, multiple charges (later dropped) and a week-long detention; (iv) violent dispersal of a strike by workers of a fruit-exporting company in Compostela Town in Compostela Valley in October 2018 and the murder of a trade union activist; (v) assassination of nine sugar cane workers during a protest at Hacienda Nene in Sagay, Negros Occidental; and (vi) suspected arson attack of a labour leader's home during a strike in a banana-packing plant in December 2018. **The Committee requests the Government to provide a detailed reply to these allegations.**

*Pending cases of alleged killings of trade union leaders.* The Committee previously requested the Government to provide detailed information on the progress achieved on the prosecution and judicial investigations relating to three cases of alleged killings of trade union leaders previously reported by the ITUC. While taking due note of the update provided by the Government that the case of Rolando Pango should be reviewed by regional police for possible re-filing, that the case of Florencio "Bong" Romano has not yet been deliberated on due to the non-reactivation of the Administrative Order (AO) 35 Inter-Agency Committee (IAC) and that in the case of Victoriano Embang, a case of murder was filed and an arrest warrant issued against suspects who are at large, the Committee **regrets** to observe that even after numerous years, none of these cases have yet been fully concluded. **The Committee expresses the firm hope that the investigations into the serious allegations of killings of the above trade union leaders, as well as the ongoing judicial proceedings in this regard, will be completed in the very near future with a view to shedding full light, at the earliest date, on the facts and the circumstances in which such actions occurred and, to the extent possible, determining responsibilities, punishing the perpetrators and preventing the repetition of similar events.**

*Monitoring mechanisms.* In its previous comment, the Committee requested the Government to provide detailed information on the progress made by the Tripartite Validating Teams, the National Tripartite Industrial Peace Council-Monitoring Body (NTIPC-MB) and other relevant bodies in ensuring the collection of the necessary information to bring the pending cases of violence to the courts and the outcome in this regard. The Committee notes the Government's assertion that: (i) the existing mechanisms remain steadfast in ensuring expeditious investigation, prosecution and resolution of pending cases concerning alleged harassment and assassination of labour leaders; (ii) for example, after the alleged extra-judicial killing (EJK) of a trade unionist Dennis Sequeña was endorsed by the IAC, the Department of Justice ordered the set-up of a special investigating team to conduct the investigation and case build-up; and (iii) the existing mechanisms monitor 72 cases of EJK and attempted murders and have also been mobilized to validate and gather information on the 43 cases of alleged murders of unionists and union leaders, as identified by the CTUHR and discussed at the Conference Committee. The Committee welcomes the information provided by the Government to the Conference Committee that, in the spirit of social dialogue and tripartite engagement, trade unions' and employers' representatives were enlisted as deputized labour inspectors (as of January 2019, there were 241 deputized social partners) and that 16 Regional Tripartite Monitoring Bodies (RTMBs) across the country were ready to be mobilized in case of need, bringing about an immediate response and concrete appropriate action.

The Committee observes, however, that the Government representative at the Conference Committee recognized that the mandates, structures and internal rules of the monitoring mechanisms need to be further revisited. According to the Government representative, the IAC, for instance, needed strengthening by ensuring openness and transparency on the prosecution and movement of EJK cases, adopting inclusive criteria in the screening of these cases, relatedness to the exercise of freedom of association, capacity-building on freedom of association and on the collection of physical and vital forensic evidence to reduce heavy reliance on testimonial evidence. The Committee **regrets** to observe that the IAC has not yet reconvened and that due to the risks and dangers involved for the members of the Tripartite Validating Teams, this initiative has not yet been put into practice. The Committee further observes the concerns raised by the ITUC and the ITF with regard to the criteria used by the IAC to determine extra-judicial killings, the lack of effective monitoring mechanisms and of resources to investigate and prosecute all complaints of EJK of trade unionists and the need to rapidly identify perpetrators of violence and bring them to justice to combat impunity.

The Committee **regrets** that despite a number of initiatives undertaken, there continue to be numerous allegations of violence perpetrated against trade union members for which the presumed perpetrators have not yet been identified and the guilty parties punished. It notes in this regard the Government's acknowledgment that conviction has indeed been the recurring and imposing challenge due to the amount of evidence required to convict perpetrators of a crime and that there is a need for major support on this aspect. The Committee observes that the Conference Committee also noted with concern the numerous allegations of murders of trade unionists and anti-union violence, as well as the allegations regarding the lack of investigation in relation to these allegations. **In light of the above, the Committee requests the Government to take the necessary measures to ensure that all of the existing monitoring mechanisms can function properly and efficiently, including by allocating sufficient resources and staff, so as to contribute to effective and timely monitoring and investigation of allegations of EJK and other forms of violence against trade union leaders and members. In particular, the Committee expects that, despite the challenges faced, the Tripartite Validating Teams will be established in practice**

*and the IAC will reconvene in the near future. The Committee requests the Government to continue to provide detailed information on the progress made by the existing monitoring mechanisms in ensuring the collection of the necessary information to bring the pending cases of violence to the courts.*

*Measures to combat impunity.* The Committee previously requested the Government to provide detailed information on the steps taken to combat impunity, provide sufficient witness protection and build the capacity of the relevant State actors in the conduct of forensic investigation. The Committee welcomes the detailed information provided by the Government to the Conference Committee relating to numerous trainings, capacity-building activities, seminars and lectures conducted to enhance the knowledge and capacities of various State and non-State actors, including the police, military, prosecutors, enforcers, relevant actors in criminal investigation, local chief executives and social partners on international labour standards, the principles and application of the Convention, as well as on criminal investigation. The Committee also welcomes additional steps taken by the Government in this regard: elaboration of a workers' training manual and of an e-learning module on freedom of association as part of the Labour and Employment Education Services (LEES); call by the Department of Labour and Employment (DOLE) on the PNP and AFP to ensure the observance of the guidelines on the conduct to be observed during the exercise of workers' rights and activities; AFP and PNP commitment to integrating the Labour Code and the guidelines in their education programme; and review of the guidelines for amendment and updating. Finally, the Committee observes the Government's explanation that reliance on testimonial evidence in the prosecution of criminal cases remains indispensable and that forensic evidence is supplemental in character and in addition that programmes should be conducted, together with the ILO, to enhance the capacity of the concerned agencies in gathering and handling forensic evidence. The Government representatives also informed the Conference Committee about a strategic planning conducted in March 2019 regarding the provision of adequate assistance and protection to witnesses under the Witness Protection Programme. ***Welcoming the above initiatives and measures undertaken, the Committee encourages the Government to continue to provide regular and comprehensive training to all concerned State actors in relation to human and trade union rights, as well as on the collection of evidence and the conduct of forensic investigation, with the aim of combating impunity, increasing the investigative capacity of the concerned officials and providing sufficient witness protection. The Committee invites the Office to provide any technical assistance required in this regard.***

*Review of operational guidelines of monitoring mechanisms.* The Committee previously requested the Government to inform it of developments with regard to the review and updating of the operational guidelines of the investigating and monitoring bodies, as part of the National Action Plan under the DOLE-ILO-EU-GSP+ Development Cooperation Project. The Government indicated to the Conference Committee that one of the outcomes of the project is the review of the existing mechanisms to address cases of violations of workers' civil liberties and trade union rights. Following the review of the operational guidelines and process structures of the NTIPC-MB, the RTMBs, the IAC and the National Monitoring Mechanisms (NMM), gaps and issues in the operationalization of these mechanisms have been identified, as well as problem areas encountered by investigative agencies, such as the PNP, the Commission on Human Rights (CHR) and the AFP Human Rights Officer. According to the Government, recommendations issued to help address the identified gaps and blockages will be taken up by the concerned agencies for consideration and possible implementation. ***Welcoming this information, the Committee trusts that the recommendations addressing the current gaps and blockages will be rapidly implemented so as to contribute to swift and efficient investigation of pending labour-related cases of EJK and other violations.***

### **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. The Committee notes the Government's assertion that, in coordination with the social partners, it has sought to address emerging labour, economic and social concerns affecting workers' rights and exercise thereof and has achieved substantial progress in its commitments towards the promotion and protection of freedom of association rights, including a multitude of actions and reforms undertaken. On the other hand, the Committee notes that, according to the ITUC, there appears to be an absence of good faith by the Government to adopt the necessary measures that would bring the legislation into compliance with the Convention. The Committee further observes that the Conference Committee regretted that the reforms introduced to address some of the issues were not adopted and urged the Government to bring the law into compliance with the Convention. The Committee on Freedom of Association also trusted that the Government would make serious efforts to bring the Labour Code into conformity with the principles of freedom of association and referred these legislative aspects to this Committee (see 391st Report, October 2019, Case No. 2745, paragraph 50). ***The Committee expects that the Government will make serious efforts to align the Labour Code and other pieces of national legislation with the Convention on the following matters.***

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations of their own choosing, without previous authorization. Aliens.* In its previous comments, the Committee had requested the Government to provide information on the progress made in relation to amendments to sections 284 and 287(b) of the Labour Code so as to grant the right to organize to all workers residing in the Philippines. The Committee notes, from the information provided by the Government to the Conference Committee that House Bill No. 4448 (extending the right to self-organization to aliens in the Philippines and withdrawing the prohibition of foreign trade union organizations to engage in trade union activities) and House Bill No. 1354 (allowing foreign individuals and foreign organizations to engage in trade union activities) are expected to be refiled in the 18th Congress. ***The Committee regrets the absence of any progress in this***

*regard and expects that the necessary amendments will be adopted in the near future and that they will ensure that any individuals residing in the country, whether or not they have a residence or a working permit, can benefit from the trade union rights provided by the Convention. The Committee requests the Government once again to provide information on progress made in this respect and to transmit copies of the amending legislation once adopted.*

*Other categories of workers excluded from the guarantees of the Convention.* The Committee had previously pointed to the lack of trade union rights for certain categories of workers, including workers in managerial positions or with access to confidential information, firefighters, prison guards and other public sector workers, as well as temporary or outsourced workers and workers without employment contract (sections 253 and 255 of the Labour Code, Rule II Section 2 of the Amended Rules and Regulations Governing the Exercise of the Right to Government Employees to Organize, 2004). The Committee notes the Government's indication that for the purposes of exercising the right to organize, the first parameter to take into account is whether or not a worker is covered by an employer–employee relationship. It states that under section 253 of the Labour Code, only employees 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 understands from this information that several categories of workers continue to be excluded from the full guarantees set out in the Convention and that no legislative changes have yet been made in this regard. It also observes the concerns expressed by the ITUC in this regard. In its previous comment, the Committee also noted the Government's reference to House Bills Nos 4553 and 5477 and Senate Bill No. 641 (seeking to address concerns regarding Government employees' right to self-organization) and House Bill No. 8767 (filed in December 2018 and aimed at addressing the gaps in public sector labour relations, particularly on the protection of the right to organize). The Committee observes, from the information provided by the Government to the Conference Committee, that the above Bills are expected to be refiled in the 18th Congress. ***Recalling that the legislative reform addressing the right to organize of the above-mentioned categories of workers has been pending for a number of years, the Committee firmly expects any legislative amendments currently pending on the issue to be adopted without delay so as to ensure that all workers, other than the armed forces and the police, including those in managerial positions or with access to confidential information, firefighters, prison guards and other public sector workers, as well as temporary or outsourced workers and workers without employment contracts are able to form and join the organizations of their own choosing to defend their occupational interests, and requests the Government to transmit copies of the amending legislation once adopted. The Committee reminds the Government that it can avail itself of the technical assistance of the Office, if it so desires.***

*Registration requirements.* The Committee had previously referred to the need to amend section 240(c) of the Labour Code so as to lower the excessive minimum membership requirement for forming an independent union (20 per cent of all the employees in the bargaining unit where the union seeks to operate). The Committee notes, from the information provided by the Government to the Conference Committee that House Bill No. 1355 (seeking to lower the minimum membership requirement for registration of an independent union from 20 to 10 per cent and to develop an online system for trade union registration), House Bill No. 4446 (promoting "employee free choice" by making it easier for workers to join and establish unions through "majority sign-up") and Senate Bill No. 1169 (seeking to reduce the minimum membership requirement from 20 to 5 per cent and to institutionalize online registration) are expected to be refiled in the 18th Congress. ***Observing that the Government has been referring to amending legislation for several years now, the Committee firmly expects that the necessary amendments will be adopted in the very near future, reducing the minimum membership requirement to a reasonable level so that the establishment of organizations is not hindered. The Committee requests the Government to provide information on progress made in this respect and to transmit copies of the amending legislation once adopted.***

*Article 3. Right of workers' organizations to organize their activities and to formulate their programmes without interference by the public authorities. Essential services.* The Committee previously requested the Government to provide information on the legislative progress made to ensure that Government intervention leading to compulsory arbitration is limited to essential services in the strict sense of the term (amendments to section 278(g) of the Labour Code). The Committee notes from the information provided to the Conference Committee that the previously mentioned House Bills Nos 175, 711, 1908 and 4447 and Senate Bill No. 1221 (aimed at rationalizing Government intervention in labour disputes by adopting the essential services criteria in the exercise of the assumption of jurisdiction power of the Secretary of Labour and Employment) are expected to be refiled in the 18th Congress and observes that no significant progress has thus been achieved in this regard. The Committee also notes that the Government simply reiterates information provided previously on the issuance in 2013 of Order No. 40-H-13 (an implementing guideline for section 278(g) of the Labour Code), which harmonizes the list of industries indispensable to the national interest with the essential services criteria of the Convention in the exercise of assumptive power of the Secretary of Labour and Employment over labour disputes, strikes and lockouts, and which should help facilitate the passage in Congress of the respective bill. The Committee recalls that the industries referred to in Order No. 40-H-13 include the hospital sector, electric power industry, water supply services (except small water supply services, such as bottling and refilling stations) and air traffic control; and that other industries may be included upon recommendation of the NTIPC. It observes in this regard that, according to the ITUC, the Government still retains an expansive instead of a strict and limited definition of essential services. ***Observing that the Committee on Freedom of Association has also previously addressed this issue (see 390th Report, June 2019, Case No. 2716, paragraph 78 and 391st Report, October 2019, Case No. 2745, paragraph 51) and recalling that the Government has been referring to legislative amendments to section 278(g) for numerous years, the Committee expects that these legislative amendments***

*will be adopted in the very near future and that they will ensure that Government intervention leading to compulsory arbitration is limited to essential services in the strict sense of the term. The Committee requests the Government to report progress in this regard and to transmit copies of the amending legislation once adopted.*

*Penal sanctions for participation in a peaceful strike.* In its previous comments, the Committee firmly trusted that sections 279 and 287 of the Labour Code would be amended in the very near future to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike, even if non-compliant with bargaining or notice requirements. The Committee notes that, as indicated above, House Bills Nos 175, 711, 1908 and 4447 and Senate Bill No. 1221 decriminalizing violations related to the assumption of jurisdiction and modifying the penalty for direct participation in illegal strike from dismissal or imprisonment to disciplinary measures or payment of a fine, are expected to be refiled in the 18th Congress. The Committee further observes the allegations raised by the ITF, indicating that in addition to sections 279 and 287 of the Labour Code, the 1946 Commonwealth Act has also been used to impose penal sanctions against an organizer of a peaceful strike. ***Regretting the absence of any substantial progress on the adoption of the previously announced amendments to sections 279 and 287 of the Labour Code, the Committee expects the Government to take the necessary measures to ensure that these amendments are adopted in the near future and that any other necessary changes are made in national laws or regulations to ensure that no penal sanctions are imposed against a worker for having carried out a peaceful strike, even if non-compliant with bargaining or notice requirements. The Committee requests the Government to provide information on the progress made, as well as its reply to the ITF allegations.***

*Foreign assistance to trade unions.* The Committee had previously referred to the need to amend section 285 of the Labour Code, which subjected the receipt of foreign assistance to trade unions to prior permission of the Secretary of Labour. The Committee notes, from the information provided by the Government to the Conference Committee, that the previously mentioned House Bill No. 4448 (regulating foreign assistance to Philippine trade unions), House Bill No. 1354 (allowing the extension of foreign assistance to labour organizations and workers' groups) and Senate Bill No. 1169 (removing the prior authority requirement on foreign assistance to local trade union activities) will be refiled in the 18th Congress. ***Recalling that the Government has been referring to amending legislation for several years now, the Committee firmly expects that the previously reported proposed legislative amendments removing the need for Government permission for foreign assistance to trade unions will be adopted in the very near future. It requests the Government to provide information on any progress made in this regard and to transmit copies of the amending legislation once adopted.***

*Article 5. Right of organizations to establish federations and confederations.* The Committee previously referred to the need to lower the excessively high requirement of ten union locals or chapters duly recognized as collective bargaining agents for the registration of federations or national unions set out in section 244 of the Labour Code. The Committee notes from the information provided to the Conference Committee that House Bill No. 1355 and Senate Bill No. 1169 reducing the number of affiliate local chapters required to register a federation from ten to five are expected to be refiled in the 18th Congress. ***Observing that the revision of the Labour Code on this point has been pending for several years, the Committee firmly expects that the legislative amendments lowering the excessively high requirement for registration will be adopted in the very near future and requests the Government to provide information on the progress achieved.***

*Application of the Convention in practice.* The Committee welcomes the statistics provided by the Government on the number of workers' organizations and the number of workers covered in both the private and public sectors, as well as the introduction of a prohibition to contract or subcontract when undertaken to circumvent the workers' right to security of tenure, self-organization, collective bargaining and peaceful concerted activities (Executive Order No. 51, series of 2018).

## Romania

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

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.

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1958)***

In its previous comments, the Committee had requested the Government to provide its comments on the observations of the International Trade Union Confederation (ITUC) received on 1 September 2018, as well as on the observations of the Block National Trade Unions (BNS), the Confederation of Democratic Trade Unions of Romania (CSDR) and the National Trade Union Confederation (CNS 'CARTEL ALFA') received on 31 August 2018 referring to matters examined in this observation. ***Noting that the Government has not yet provided its reply to the above-mentioned observations, the Committee reiterates its previous request.***

***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 specify the legal provisions that sanction acts of anti-union discrimination and to provide detailed information on the number of cases of anti-union discrimination and employers' interference, including the sanctions and remedies applied. The Committee notes that according to the information provided by the Government: (i) labour legislation does not include sanction regulations regarding acts of anti-union discrimination; however conflicts related to the conclusion or execution of individual labour contracts fall within the jurisdiction of the courts, which, upon request may decide according to section 253 of the Labour Code providing compensation in case of violation of rights; (ii) in 2016, Act No. 62 of 2011 concerning social dialogue (Social Dialogue Act, (SDA)) was amended in order to extend the protection against anti-union dismissal of trade union officers during and two years after the end of the mandate for reasons not related to the employee, for professional misconduct or for reasons connected with the fulfilment of the mandate (paragraph 11, section 10 of the SDA, as amended); (iii) the Constitutional Court considered that the protection granted to trade union officers was unconstitutional, that trade union immunity must operate exclusively in relation to trade union activity and in the face of an objective situation of dismissal not related to the employee, trade union officers have to be in an analogous situation with the other employees who do not exercise trade union functions (sentence No. 681/2016).

The Committee notes that section 10 of the SDA prohibits the amendment and termination of individual labour contracts for grounds regarding union membership, and that section 220(2) of the Labour Code provides protection specifically to trade union officers for anti-union acts (including dismissals) but that none of the mentioned provisions set specific sanctions in case of their violation. Noting, additionally, that section 253 of the Labour Code, referred to by the Government and applicable to any violation of labour rights, provides for compensation for the damage caused by the

employer on the general basis of contract civil liability, the Committee observes therefore that the current legislation does not set specific sanctions applicable to acts of anti-union discrimination. In this regard, the Committee recalls that acts of anti-union discrimination should be subject to effective and dissuasive sanctions and that, to this end, they should be higher than those set for other violations of labour rights.

***In light of the above, the Committee requests the Government to take measures to amend the relevant legislation in order to guarantee that acts of anti-union discrimination are subject to specific and dissuasive sanctions. Furthermore, noting that the Constitutional Court considered that the trade union immunity must operate exclusively in relation to trade union activity, the Committee requests the Government to indicate how the burden of proof is placed in cases of allegations of anti-union discrimination affecting trade union officers. It further requests the Government to provide 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, as well as the sanctions and remedies applied in such cases.***

***Tripartite discussion of recent anti-union practices.*** The Committee notes the Government's indication that the social partners were not interested in including in the agenda of the Tripartite National Council for Social Dialogue matters related to trade union discrimination. It also notes that in its 2018 observations the ITUC raised that trade unions are subjected to systematic anti-union discrimination, which undermines their existence and the protection they provide to workers. ***The Committee, therefore, requests the Government to ensure that anti-union practices, and in particular preventive measures, will be subject to tripartite discussions. It requests the Government to provide information on any further progress in this regard.***

***Article 4. Promotion of collective bargaining. Negotiation with elected workers' representatives.*** In its previous comments, the Committee had pointed out that section 135(1)(a) of the SDA (Act No. 62 of 10 May 2011; and subsequent amendments) raised problems of incompatibility with the Convention, because in cases where a non-representative union (pursuant to section 51 of the SDA, a union that does not have at least half plus one of the number of workers of the undertaking) was not affiliated to a representative sectoral federation, the negotiation of a collective agreement *erga omnes* could be carried out exclusively by elected workers' representatives, thus rendering obsolete the right of unions considered as non-representative to negotiate on behalf of their own members. It had recalled in this regard that collective bargaining with representatives of non-unionized workers should only be possible when there are no trade unions at the respective level, and that appropriate measures should be taken, wherever necessary, to ensure that the existence of elected workers' representatives is not used to undermine the position of the workers' organizations concerned. The Committee notes the Government's indication that: (i) the SDA was not enacted with an aim of favouring collective bargaining with employees' representatives; and (ii) section 134(2) of the SDA, was amended in 2016 as follows: "if the union is not representative, representation is made by the federation to which the union is affiliated, if the federation is representative at the level of the sector to which the unit belongs; where no unions are constituted by the elected representatives of the employees" (Law No. 1/2016). The Committee further notes that in their 2018 observations, the BNS, the CSDR and the CNS 'CARTEL ALFA' alleged that elected workers' representatives have been used to undermine negotiations efforts of representative unions and that in 2017 more than 92.5 per cent of collective agreements in the private sector were negotiated and signed by elected workers' representatives. It further notes that according to the statistics provided by the ITUC, while in 2010 all collective agreements were negotiated and signed by trade unions, in 2017 only 14 per cent of all collective agreements concluded were signed by trade unions, and 86 per cent were concluded by elected workers' representatives. The Committee recalls that, since, under the terms of the Convention, the right of collective bargaining lies with workers' organizations at all levels, and with the employers and their organizations, collective bargaining with representatives of non-unionized workers should only be possible when there are no trade unions at the respective level (see the 2012 General Survey on the fundamental Conventions, paragraph 239). ***While taking due note of the amendment of section 134(2) of the SDA, the Committee requests the Government to clarify whether the negotiating powers granted to the elected workers' representatives exist only when there is no trade union. Further noting with concern the statistics submitted by the national unions and the ITUC, the Committee requests the Government to provide its comments thereon.***

***Representativeness criteria and coverage of collective bargaining.*** The Committee recalls that it had previously noted that section 51 of the SDA which sets out the representativeness criteria at enterprise level (union membership of at least 50 per cent plus one of the workers of the enterprise) required to be amended so as to ensure the possibility for unions that had not secured the absolute majority requested by that provision to be able to bargain collectively. The Committee had further noted that the SDA (2011) had resulted in a drastic decrease in the number of collective agreements concluded at the enterprise level and at the sectoral level. The Committee notes the Government's information that bipartite and tripartite consultations on collective bargaining procedures have not led to an agreement between the social partners. The Government further indicates that upon its request for technical assistance, the Office drafted a technical memorandum regarding the revision of the SDA and that the comments of the Office are currently under parliamentary discussion. As to the number of collective agreements concluded, the Committee notes that according to the Government: (i) at the enterprise level, in 2013, there were 8,367 collective agreements, while in 2016, there were 9,366 collective agreements (approximately 33 per cent of the workers); and (ii) at sectoral level, in 2014, there were three contracts, while in 2016 there were none. On the other hand, the Committee notes that according to the ITUC, the BNS, the CSDR and the CNS 'CARTEL ALFA': (i) the SDA severely undermined the capacity of first-level unions to represent workers in collective bargaining – the representativeness

criteria have only been met in nine out of the 30 sectors, which are thus the only ones represented by trade unions; (ii) trade unions have not been consulted on the proposed amendments to the SDA and the Government did not take into consideration the joint proposal made by the organizations above. The Committee further notes that, according to the European Foundation of the Improvement of Living Conditions and Working Conditions (EUROFOUND), the 2011 SDA led to the concentration of collective bargaining at company level and collective bargaining coverage has declined from almost 100 per cent in 2010 to approximately 35 per cent in 2013 and only 15 per cent (952,911 employees) in 2017. ***In view of the above and recalling its previous comments, the Committee requests the Government to take, in full consultation with the most representative workers' and employers' organizations, all the necessary measures to amend the representativeness thresholds so as to effectively promote collective bargaining at all levels.***

*Articles 4 and 6. Collective bargaining in the public sector. Public servants not engaged in the administration of the State.* The Committee had previously noted that salaries under Act No. 284/2010 on Unitary Salaries of the Staff Paid from the Public Budget were based on a legislatively established coefficient and had requested the Government to ensure that the wages of all public servants not engaged in the administration of the State are not excluded from the scope of the collective bargaining. The Committee notes the Government's indications that the Convention does not explicitly provide for the obligation of State parties to bargain collectively on wages, that the fixing of wages shall be at the discretion of national practice, and that a new salary law implemented in 2017 (Law No. 153/2017-Unique Pay Law), in consultation with social partners, set up an agreed mechanism for wage increases of staff paid by the State budget beginning in 2020. With respect to the discussions regarding the draft amendment to Act No. 284/2010, the Government indicates that despite the consultations carried out between 2014–16 by the bipartite and tripartite working groups, no consensus was reached in that regard. The Committee recalls that, in accordance with the Convention, public servants not engaged in the administration of the State should be able to negotiate their wage conditions collectively and that mere consultation with the unions concerned is not sufficient to meet the requirements of the Convention in this respect. However, the special characteristics of the public service described above require some flexibility, particularly in view of the need for the state budget to be approved by Parliament (see the 2012 General Survey on the fundamental Conventions, paragraph 219). ***Highlighting once again the need to ensure that wages are included in the scope of the collective bargaining for all public servants not engaged in the administration of the State, the Committee once again requests the Government to take the necessary measures, in full consultation with the social partners and, if necessary, with technical assistance from the Office, to bring national law and practice into conformity with Article 4 of the Convention, fixing for example upper and lower limits for the wage negotiations with the trade unions concerned.***

## Rwanda

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1988)***

The Committee notes the adoption of the new Labour Code (Law No. 66/2018 of 30 August 2018). The Committee notes that sections of the new Labour Code refer to ministerial orders, some of which have been the object of the Committee's comments.

*Articles 2 and 3 of the Convention. Right of workers, without distinction whatsoever, to establish organizations of their own choosing. Right to elect representatives freely.* In its previous comments, the Committee had requested the Government to take the necessary measures, in consultation with the social partners, to amend the provisions of Ministerial Order No. 11 so as to ensure that the procedure for the registration of employers' and workers' organizations is fully in conformity with the Convention:

- *Judicial record.* Under the terms of section 3(5) of Ministerial Order No. 11, of September 2010, 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. In the view of the Committee, conviction on account of offences the nature of which is not such as to call into question the integrity of the person concerned and is not such as to be prejudicial to the exercise of trade union functions should not constitute grounds for disqualification from holding trade union office.
- *Time limits for registration.* Under the terms of section 5 of Ministerial Order No. 11, the authorities have a time limit of 90 days to process the application for the registration of a trade union. The Committee recalls that a long registration procedure is a serious obstacle to the establishment of organizations without previous authorization, in accordance with *Article 2* of the Convention.

The Committee notes that the Government states that a person who leads others is required to prove his or her integrity and that, in line with the Rwandan legislation, a person who is convicted of a crime punishable by a principal penalty of imprisonment for a term of not less than six months is a person whose integrity is questionable. The Committee reiterates 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. Furthermore, legislation which establishes excessively broad ineligibility criteria, for example by means of an open-ended definition or 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 (see General Survey on the fundamental Conventions, 2012,

paragraph 106). *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.*

With regard to the time limits for registration, the Committee notes the Government's indication that it has taken note of the concern, and that the registration period will be reduced in an ongoing revision of the Ministerial Order regarding registration of employees and employers' organizations. *The Committee requests the Government to provide information on all developments in this regard, including the amendment of section 5 of Ministerial Order No. 11.*

*Exclusion of categories of public servants from the right to organize.* In its previous comment, the Committee had requested the Government to provide a list of categories of public servants which fall within the exclusion established in section 51 of Act No. 86/2013 issuing the General Statute of the Public Service, which recognizes the right of public servants to join any trade union of their choice, with the exception of "political office holders" and "officers of the security services". The Committee notes the Government's indication that it will consider the Committee's concern in the revision of the above-mentioned Act. The Committee reiterates that the Convention sets out the right of all workers, without distinction whatsoever, including political leaders, to establish and join organizations of their own choosing, and only authorizes exemptions in relation to the police and the armed forces, and that these exceptions must, however, be construed in a restrictive manner so as not to include public servants of security-related services. *The Committee therefore requests the Government to provide information on the specific categories of public servants excluded under section 51 of Act No. 86/2013, and on any progress made in this regard, so as to ensure that public servants, like all other workers, with the only exception of the armed forces and the police, enjoy the right to organize under 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: 1988)**

The Committee notes the adoption of the new Labour Code (Law No. 66/2018 of 30 August 2018).

*Articles 1 and 2 of the Convention. Adequate protection against anti-union discrimination and interference.* In its previous comments, the Committee had noted that, according to the provisions of section 114 of the Labour Code (Law No. 13/2009), any act which infringed the provisions granting protection against acts of discrimination and interference was considered abusive and incurred the payment of damages, and had noted that the amount of damages, however, was not specified in the Labour Code 2009. The Committee had requested the Government to take measures to establish sufficiently dissuasive sanctions against acts of anti-union discrimination and interference, in particular with respect to the amount of damages awarded to trade union members. While taking note of the Government's statement that the amount of compensation applicable in cases of anti-union discrimination must be determined according to the damage suffered by the victim, in consonance with section 258 of the Civil Code, Book III, the Committee notes with *regret* that with the adoption of the Labour Code 2018, the above-mentioned section 114 was repealed and the new legislation does not contain, beyond the dismissal of trade union representatives, specific provisions prohibiting and punishing acts of anti-union discrimination and interference. *The Committee requests the Government to take the necessary measures to ensure that the new legislation in force provides adequate and specific 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.* In its previous comments, the Committee had noted that the collective bargaining dispute settlement procedure provided for in section 143 ff. of the Labour Code 2009 culminated, in cases of non-conciliation, in referral, at the initiative of the labour administration, to an arbitration committee whose decisions could be the subject of an appeal to the competent jurisdiction, whose decision shall be binding. The Committee had recalled that, in order to preserve the principle of voluntary negotiation recognized by the Convention, compulsory arbitration is only acceptable in certain specific conditions, such as in essential services in the strict sense of the term, in the case of disputes involving public servants engaged in the administration of the State (*Article 6* of the Convention), or in the case of an acute national crisis. The Committee therefore had requested the Government to take the necessary measures to amend the legislation so as to ensure that a collective labour dispute in the context of collective bargaining may be submitted to arbitration or to the competent legal authority only with the agreement of both parties, except in the circumstances referred to above. The Committee takes due note of the Government's indication that: (i) the new Labour Code removed the mandatory requirement for the parties involved in a collective labour dispute to resort to arbitration; and (ii) it may intervene in the settlement of collective labour disputes, within limits established by an Order of the Minister in charge of labour, which, under section 103 of the new Labour Code, determines the organization, functioning of labour inspection and procedure for labour disputes settlements. *While it welcomes the removal by the new Labour Code of the mandatory requirement for the parties involved in a collective labour dispute to resort to arbitration, the Committee, in order to ensure that the new rules applicable to the settlement of collective disputes are fully in line with the principle of free and voluntary collective bargaining established by the Convention, requests the Government to provide a copy of the above-mentioned Order and to communicate detailed information on the new procedure for collective labour disputes settlement.*

Furthermore, in its previous comments, the Committee had noted that section 121 of the Labour Code 2009 provided that, at the request of a representative organization of workers or employers, the collective agreement shall be negotiated

within a joint committee convened by the Minister of Labour or his or her delegate or representatives of the labour inspection participating as advisers. The Committee had recalled that such provision may restrict the principle of free and voluntary negotiation of the parties established by the Convention, and had requested the Government take the necessary measures to amend the legislation so as to ensure that the parties can freely determine the modalities of collective bargaining and in particular that they can decide as to whether or not a representative of the labour administration may be present. The Committee notes with *interest* the Government's statement that the participation of a labour administration representative in the collective bargaining process is no longer required under the new Labour Code and that, as a consequence, parties can now convene and negotiate freely without the presence of the Minister, his/her delegate or representative of labour inspection.

In its previous comments, the Committee had also noted that, under section 133 of the Labour Code 2009, at the request of a representative workers' or employers' organization, whether or not it is a party to the agreement or on its own initiative, the Minister of Labour may make all or some of the provisions of a collective agreement binding on all employers and workers covered by the occupational and territorial scope of the agreement. The Committee had requested the Government to indicate the institutional framework in which these tripartite consultations take place and to provide information on recent extension procedures. The Committee notes the Government's indication that the recent extension procedure is set forth in the new Labour Code in its section 95, which provides that a collective agreement applicable to at least to two-thirds (2/3) of the number of employees or employers representing the category of the concerned professionals may, at the request of the parties, be extended to the entire sector. ***The Committee welcomes these elements and requests the Government to provide information on the application in practice of section 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)***

The Committee notes the information provided by the Government that while the previous draft Labour Code has been withdrawn, new measures have been adopted to prepare a new Labour Code through tripartite consultations and with the technical assistance from the Office.

*Article 1 of the Convention. Adequate protection against acts of anti-union discrimination.* In its previous comments, the Committee had requested the Government:

- to take the necessary legislative measures to ensure that workers are granted adequate protection against all acts of anti-union discrimination at the time of recruitment and throughout the course of employment (section 11 of the Protection of Employment Act only refers to protection against termination of employment on the grounds of union membership or participation in union activities); and
- to provide information on any development in relation to the Government's efforts to ensure that the sanctions provided for in the Protection of Employment Act be reviewed so that they are sufficiently dissuasive against all acts of anti-union discrimination.

The Committee notes the Government's indication that necessary changes will be reflected upon completion of the new Labour Code, taking into consideration the Committee's observations, to guarantee adequate protection to workers against acts of anti-union discrimination at all stages of the employment relationship. The Committee further notes the Government's indication that the Department of Labour continues to hold discussions to ensure that the existing sanctions outlined in the Act are increased according to the Committee's recommendations and that this matter will be given full consideration during the consultation of the draft Labour Code, which is being carried out. The Committee observes, however, that the first draft of the new Labour Code, attached to the Government's report, does not include provisions addressing the above-mentioned matters.

*Article 2. Adequate protection against acts of interference.* In its previous comments, the Committee had requested the Government to provide information on the measures taken towards the adoption of specific provisions that would explicitly provide for rapid appeal procedures, coupled with effective and dissuasive sanctions, against acts of interference. While the Committee notes the Government's indication that its observations will be taken into consideration during the consultations on the Labour Code revision exercise and that specific measures will be adopted, it observes that the first draft of the new Labour Code does not include any provision prohibiting any acts of interference and, therefore, neither does it include provisions providing for rapid appeal procedures and sufficiently dissuasive sanctions against acts of interference.

*Article 4. Recognition of organizations for the purposes of collective bargaining.* In its previous comments, the Committee had requested the Government to provide information on the measures taken towards the adoption of specific provisions to explicitly recognize and regulate in the legislation the right to bargain collectively, in conformity with the Convention. The Committee notes the Government's indication that this matter will be addressed during the consultative phase of the new draft Labour Code, taking into account the Committees' observations. It also notes that the new draft Labour Code is silent in this regard.

*In these circumstances, the Committee requests the Government to take all the necessary measures to include provisions in the new draft Labour Code so as to ensure full conformity with the Convention. The Committee trusts that the Government will take full advantage of the technical assistance of the Office and will soon be able to report progress 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, the sectors concerned and the number of workers covered by these agreements.*

## Saint Lucia

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1980)**

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 2020, 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. Right of workers and employers, without distinction whatsoever, to establish and to join organizations.* For several years, noting that the "protective services" – which include the fire services and prison officers – were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures to ensure the right to organize to fire service personnel and prison staff. The Committee notes that section 325 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to organize in the new legislation. *Noting that the Government indicates in its report that the issue of the right to organize fire service personnel and prison staff would be raised with the Minister of Labour, and recalling previous indications that the workers of these services benefit in practice from this right, the Committee once again requests the Government to indicate the manner in which service personnel and prison staff are assured the organizational rights provided in 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.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1980)**

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 2020, 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, 2, 4 and 6 of the Convention.* For several years, noting that the "protective services" – which include the fire services and correctional officers – were excluded from the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999, the Committee had requested the Government to take the necessary measures in order to grant fire service personnel and correctional staff the rights and guarantees provided for in the Convention. The Committee notes that the Labour Act 2006, which entered into force on 1 August 2012, repeals the Registration, Status and Recognition of Trade Unions and Employers' Organizations Act, 1999. It further notes that section 355 of the Labour Act 2006 also excludes "protective services" (which according to section 2 of the Act include the fire service and the correctional services) from the scope of application of the provisions which are dealing with the right to bargain collectively in the new legislation. *Noting that the Government indicates in its report that fire service personnel and prison staff benefit in practice from the right to collective bargaining, and that the issue would be raised with the Minister of Labour, the Committee once again requests the Government to take the necessary measures to expressly grant in the legislation the right to collective bargaining to fire service personnel and correctional staff.*

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

## Sao Tome and Principe

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (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. Adequate protection against anti-union discrimination and interference.* The Committee recalls that for a number of years it has been requesting the Government to take the necessary measures for the adoption of appropriate legislation which imposes sufficiently effective and dissuasive sanction against acts of anti-union discrimination and acts of interference against trade union organizations, in accordance with the provisions of the Convention. *Noting with regret that the Government limits itself to mention that, in practice, other laws are resorted to in order to compensate the mentioned legislative lacuna, the Committee requests once again the Government to take the necessary measure so as to ensure that the legislation contains specific and effective provisions concerning anti-union discrimination and interference. The Committee asks the Government to provide information on any developments in this regard.*

*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.* In its previous comments, the Committee had noted that the right to collective bargaining is recognized in Act No. 5/92, but is not the subject of legal regulation, and that the adoption of a bill on the legal framework for collective bargaining has been pending for several years.

The Committee notes with *regret* that, in contrast with its previous reports, the Government affirms that there is no bill being elaborated in this respect. Recalling that, in its previous observation, the Committee has also expressed concern at the absence of collective agreements in the country, the Committee highlights that the absence of a legal framework can hamper the exercise of the right to collective bargaining. *The Committee therefore 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. The Committee reminds the Government that it can avail itself of technical assistance from the Office in relation to the various matters raised and trusts that it will be able to note the progress in the near future.*

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

## Serbia

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

The Committee notes the observations, received on 26 September 2019, made by the Confederation of Autonomous Trade Unions of Serbia (CATUS), the Serbian Association of Employers (SAE), and the Trade Union Confederation “Nezavisnost” (TUC Nezavisnost), concerning matters addressed in the present comment. *The Committee requests the Government to provide its reply to the TUC Nezavisnost’s allegations of violations of trade union rights in practice.*

The Committee takes due note of the Government’s comments on the observations made by the International Trade Union Confederation (ITUC) and the CATUS in 2012, and by the TUC Nezavisnost in 2013.

*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 Law, 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 its previous observations, 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 Law. The Committee had also observed that, in its conclusions, the 2011 Conference Committee considered that the Government should accelerate the long-awaited amendment of section 216 of the Labour Law and expressed concern at the lack of full participation of the social partners in the legislative review. The Committee notes the Government’s indication that: (i) the adoption of a new Labour Law by the Ministry of Labour, Employment, Veteran and Social Affairs is foreseen for 2020; (ii) apart from harmonizing the existing Law with the relevant EU Directives and other “acquis”, the new Law will specify more closely the provisions which have proved objectionable or insufficiently clear in practice; and (iii) the Ministry will take into consideration the Committees’ comments related to the amendments of the Labour Law, and consider their adoption in cooperation with other stakeholders and social partners. *The Committee trusts that, in the process of revising the relevant legislation, which should be conducted in full consultation with the most representative workers’ and employers’ organizations, due account will be taken of the need to amend section 216 of the Labour Law so as to retain a reasonable minimum membership requirement that does not hinder the establishment of employers’ organizations. The Committee requests the Government to provide a copy of the new Labour Law as soon as it is adopted.*

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

## Sierra Leone

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1961)**

The Committee observes that the Government’s report does not reply to its previous comment and expects that the next report will contain full information on the matters raised in its previous comments initially made in 2010 and reproduced below.

*The Committee requests the Government to provide its comments on the 2013 observations of the International Trade Union Confederation (ITUC) alleging restrictions to collective bargaining in the mining sector.*

*Articles 1 and 2 of the Convention. Need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers’ organizations against acts of anti-union discrimination and acts of interference.* The Committee had previously noted that the revision of the labour laws, prepared with the technical assistance of the Office, had been submitted to tripartite meetings, that the comments of the tripartite body had been received and that the document had been forwarded to the Law Officers’ Department. The Committee had asked the Government to keep it informed of any further progress made in the preparation of the final draft document and to provide a copy of the revised legislation as soon as it had been adopted. *In the absence of any information from the Government, the Committee requests it to make every effort to take the necessary action for the adoption of new legislation to ensure full compliance*

*with the Convention, including as to the need to adopt specific provisions accompanied by sufficiently effective and dissuasive sanctions for the protection of workers and workers' organizations against acts of anti-union discrimination and acts of interference. Recalling that it may continue availing itself of the technical assistance of the Office, the Committee requests the Government to inform it on any progress made in this regard.*

*Article 4. Promotion of collective bargaining.* The Committee notes the Government's indication that, under the Regulations of Wages and Industrial Relations Act public officers and persons above, collective bargaining is restricted to workers below supervisory level. *Recalling that only the police, the armed forces and public servants engaged in the administration of the State may be excluded from the scope of the Convention, the Committee requests the Government to take the necessary measures to ensure that other workers with supervisory responsibilities can exercise the right to collective bargaining.*

The Committee further notes that the Government states that national labour law is silent on any important aspects of collective bargaining as provided for by the Convention. *The Committee trusts that, with the ILO's technical assistance and in consultation with the social partners, the Government will continue its review of labour legislation in order to give full effect to the Convention.*

*Collective bargaining in practice.* *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, as well as on any additional measures undertaken to promote the full development and utilization of collective bargaining under the Convention.*

## Somalia

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2014)**

The Committee recalls that, at its last session, it urged the Government to make a special effort to supply the first report due since 2016 on the application of the Convention. At that time, the Committee took note of observations received since 2015 from the International Trade Union Confederation (ITUC) and the Federation of Somali Trade Unions (FESTU) concerning restrictions on the exercise of trade union rights, the non-recognition of unions in ministries, and a climate of violence against trade unions, as well as impunity in this respect.

The Committee also noted that FESTU brought a case referring to the same issues to the Committee on Freedom of Association (CFA) (Case No. 3113). In this regard, the Committee observes that, at its last session in November 2019, the CFA took due note of the withdrawal of the complaint against the Government of Somalia from FESTU (see 391st Report, paragraph 12). The Committee particularly notes that, in its communication dated 23 September 2019, FESTU refers to a general environment of labour relations in the country which have improved considerably leading to the signing of a tripartite agreement on the revised draft Labour Code, the development of a National Employment Policy, the endorsement by the Cabinet of a comprehensive social protection policy, and the establishment of the Somali National Tripartite Consultative Committee (SNTCC) with a mandate to deal with all labour issues, which held its inaugural meeting in September 2019. The CFA also referred to a communication from the Government dated 22 September 2019 where the Government confirmed its acceptance of the CFA's outstanding recommendations. The Committee notes this information with *interest*.

The Committee also notes that the first report on the application of the Convention was received in November 2019. *Taking into account the positive developments and welcoming the efforts of the Government to supply the report, the Committee will carry out a full examination of the application of the Convention at its next session and invites the Government to provide information on any further developments.*

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 2014)**

The Committee recalls that, at its last session, it urged the Government to make a special effort to supply the first report due since 2016 on the application of the Convention. The Committee observes that it previously took note of observations received since 2015 from the International Trade Union Confederation (ITUC) and the Federation of Somali Trade Unions (FESTU) concerning interference of authorities in trade union activities and the harassment of union leaders, especially in the telecommunication and media sector.

The Committee also noted that FESTU brought a case referring to the same issues to the Committee on Freedom of Association (CFA) (case No. 3113). In this regard, the Committee observes that, at its last session in November 2019, the Committee on Freedom of Association took due note of the withdrawal of the complaint against the Government of Somalia from the FESTU (see 391st Report, paragraph 12). The Committee particularly notes that, in its communication dated 23 September 2019, FESTU refers to a general environment of labour relations in the country which have improved considerably leading to the signing of a tripartite agreement on the revised draft Labour Code, the development of a National Employment Policy, the endorsement by the Cabinet of a comprehensive social protection policy and the establishment of the Somali National Tripartite Consultative Committee (SNTCC) with a mandate to deal with all labour issues, which held its inaugural meeting in September 2019. The Committee on Freedom of Association also referred to a communication from

the Government dated 22 September 2019 where it confirmed its acceptance of the Committee's outstanding recommendations. The Committee notes this information with *interest*.

The Committee also notes that first report on the application of the Convention was received in November 2019. *Taking into account the positive developments and welcoming the efforts of the Government to supply the report, the Committee will carry out a full examination of the application of the Convention at its next session and invites the Government to provide information it deems useful on any development in this respect.*

## South Africa

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1996)**

*Trade union rights and civil liberties. Allegations of violent repression of strike actions and arrests of striking workers.* The Committee had requested the Government to provide information on the action taken to implement the recommendations of the Judicial Commission of Inquiry into the Events at Marikana Mine in Rustenburg, regarding the violent death of 34 workers during a strike action in August 2012. The Committee had noted that these recommendations addressed, among other elements, the use of firearms by the police during violent strike actions, the public accountability of the South African Police Service (SAPS) in case of similar events as well as the effective functioning of the Independent Police Investigative Directorate (IPID). The Committee notes that with regard to the investigation of the case in question, the Government indicates that it is being investigated by the IPID, and that the matter is now in the hands of the National Prosecuting Authority (NPA), which will decide whether or not anyone should be charged and if so, what charges should be brought against those implicated. The Committee further notes that, in its report, the Government indicates that the burden of protracted strikes and strike violence have triggered an agreement by the Government, organized business and organized labour to work together to consider options to address violence and prolonged strikes. The Government explains that the social partners have deliberated under the auspices of the National Economic Development and Advisory Council (NEDLAC) during 2015 and 2016 and have established amendments to the Labour Relations Act (LRA) with regards to picketing, secret ballot and the establishment of an advisory arbitration panel, the Code of Good Practice on Collective Bargaining, Industrial Action and Picketing, and Picketing Regulations. The Committee notes that the Government further indicates that it consulted with NEDLAC constituencies, trade union parties, employer parties, agencies, the SAPS, and NPA on signing the Accord on Collective Bargaining and Industrial Action, agreeing that: (i) the constitutional right to strike and the statutory right to lockout must be peaceful, free of intimidation and violence, including violence and intimidation that may be associated with police action; (ii) strike action by workers and trade unions is a legitimate exercise of power to pursue demands; and (iii) prolonged strike action has the potential to cause serious harm not only to strikers and their employers but also to others inside and outside the workplace. *Having noted the adoption of the Accord and the Code of Good Practice on Collective Bargaining, Industrial Action and Picketing, and Picketing Regulations, and also the proposed amendments to the LRA, the Committee requests the Government to send copies of the Accord, the Code of Good Practice, and also of the amended legislation once adopted, and to provide detailed information on any other developments in this regard, including on the implementation of the recommendations of the Judicial Commission of Inquiry into the Events at Marikana Mine in Rustenburg.*

The Committee had noted that in its observations of 2015, ITUC denounced the arrest of 100 community health striking workers in July 2014 and the killing, in January 2014, during a clash with the Police that took place in the context of a strike, of a union steward of the Association of Mineworkers and Construction Union (AMCU), and had therefore requested the Government to reply to these observations and to communicate the results of the investigation regarding the death of the union steward. *In the absence of information in this regard, the Committee reiterates its requests.*

*Articles 2 and 3 of the Convention. Rights of vulnerable workers to be effectively represented by their organizations.* The Committee had requested the Government to provide information on the application and impact of the provisions of the Labour Relations Amendment Act, adopted in August 2014, aimed at facilitating the representation by trade unions of employees of temporary employment services or labour brokers. The Committee had noted that: (i) by virtue of the Labour Relations Amendment Act, trade unions representing the employees of temporary employment services or of a labour broker may exercise their organizational rights not only at the workplace of the employer, but also at the client's workplace; and (ii) employees of temporary employment services or of a labour broker who participate in a legally protected strike action are entitled to picket at the client's premises. The Committee notes that the Government indicates that it has been party to commissioning research on the extent to which trade unions are making use of the new rights in the LRA and that the draft research reports indicate that the impact of the amendments on trade unionization of temporary employees is limited. The Government states that once the report has been finalized, it can be made available to the Committee. *The Committee requests the Government to provide a copy of the research reports, as well as information on any other developments in this regard.*

In its previous comment, the Committee had also requested the Government to provide information on any measures taken or planned to be taken to implement the conclusions of the 2011 report on Identifying obstacles to unions organizing in farms: Towards a decent work strategy in the farming sector, and to reply to the ITUC's 2015 observations which alleged that farmworkers are not in a position to meet the requirements to engage in legally protected industrial action. The

Committee notes that the Government provides information on its interventions to deal with the difficulties in the farming sector through: (i) a centralized bargaining forum in the farming sector, explaining that centralized collective bargaining remains the main form of fixing minimum wages in South Africa apart from sectorial determinations; (ii) considering the establishment of a national minimum wage that will increase wages of all workers irrespective of a sector or geographical location where the employee works, while still allowing for sectoral determination; (iii) a training provided by the Department of Labour through Inspection and Enforcement Service's advocacy campaigns to workers, employers and workers' representatives and empowering workers in the farming sector where union levels are low; (iv) a plan currently under way to enhance the capacity of the labour inspectorate and create more posts in different provinces to inspect, advocate and initiate enforcement on the employment laws to cover all the sectors; (v) availability of funds to unions for advocating workers' rights; and (vi) a collaboration between the Department of Labour, the government departments and other relevant stakeholders in the farming sector on various policy issues such as labour legislation affecting the farming sector and occupational health and safety on farms. ***The Committee welcomes the Government's interventions to address difficulties in the exercise of the right to organize by farmworkers and requests the Government to provide information on any further developments in this regard, including as to ITUC's 2015 observations alleging difficulties for farmworkers to engage in legally protected industrial action.***

## Sri Lanka

### ***Right to Organise and Collective Bargaining Convention, 1949 (No. 98)*** ***(ratification: 1972)***

The Committee notes the Government's reply to the 2018 observations of the International Trade Union Confederation (ITUC) and the Free Trade Zones and General Services Employees Union (FTZ and GSEU) which referred to allegations of anti-union dismissals in export processing zones (EPZs) as well as the refusal to recognize the right of unions to bargain collectively in the EPZs. The Committee notes that the Government indicates that labour inspectors have the right to enter workplaces in EPZs at any time and without prior notice and that the Labour Offices have not received any complaints in this regard.

The Committee also notes the observations of the ITUC received on 1 September 2019 alleging anti-union dismissals in a company and denouncing that anti-union discrimination and union-busting remain a major problem in the country. ***The Committee requests the Government to send its reply thereon.***

***Article 1 of the Convention. Adequate protection against acts of anti-union discrimination. Effective and expeditious procedures.*** For many years, the Committee has referred to the fact that, in practice, only the Department of Labour can bring cases concerning anti-union discrimination before the Magistrate's Court and that there are no mandatory time limits within which complaints should be made to the Court. Recalling the importance of efficient and rapid proceedings to redress anti-union discrimination acts, the Committee had urged the Government to take the necessary measures to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the judicial courts. The Committee had also expressed the hope that the Industrial Disputes Act be amended to grant trade unions the right to bring anti-union discrimination cases directly before the courts. In this respect, the Committee notes that the Government indicates once again that the possibility for workers and for trade unions to lodge complaints before the judicial courts has been discussed for years at the National Labour Advisory Council (NLAC) but that no consensus has been reached on this matter. The Government expresses the view that, as an impartial institution, the Department of Labour is in a better position than the victims are to carry out investigations and collect evidence in relation to anti-union discrimination complaints. The Government reports that, by the end of 2018, 311 cases of anti-union discrimination were pending and eight had concluded. ***Recalling that anti-union discrimination is one of the most serious violations of freedom of association, and observing that, according to the ITUC, anti-union discrimination and union-busting remain a major problem in the country, the Committee once again: (i) urges the Government to take the necessary measures in the near future to ensure that workers who are victims of anti-union discrimination can lodge a complaint before the courts and (ii) expresses the hope that the Government will take the necessary measures to amend the Industrial Disputes Act so as to grant trade unions the right to bring anti-union discrimination cases directly before the courts. The Committee also requests the Government to continue to provide information on the number of cases of anti-union discrimination examined by the courts as well as to indicate the duration of proceedings and the sanctions or remedies imposed.***

***Article 4. Promotion of collective bargaining. Export processing zones (EPZs).*** The Committee notes the information provided by the Government on measures taken to promote collective bargaining in the EPZs and welcomes the Government's indication that in 2018 and 2019 the Department of Labour conducted 12 awareness-raising programmes in the EPZs reaching approximately 1,000 workers and covering more than 50 work places. The Committee also notes the Government's indication that the fact that only trade unions can engage in collective bargaining discourages the establishment of employee councils in the EPZ's. The Committee notes, however, that the Government has not provided information on the number of collective agreements concluded by trade unions in the EPZs and has not indicated the number of trade unions and employees' councils in the EPZs, as requested by the Committee. ***The Committee therefore requests the Government to provide such information. Recalling previous ITUC observations regarding the refusal to recognize***

***the right of unions to bargain collectively in the EPZs, the Committee encourages the Government to continue to take measures to promote collective bargaining in the EPZs and requests it to provide information in that regard.***

***Representativeness requirements for collective bargaining.*** In its previous comments, the Committee had requested the Government to review section 32(A)(g) of the Industrial Disputes Act, according to which no employer shall refuse to bargain with a trade union which has in its membership not less than 40 per cent of the workers on whose behalf the trade union seeks to bargain. The Committee notes that the Government reiterates that this matter was discussed within the NLAC but that both the employers and major trade unions do not agree to reduce the threshold, as it would create more divisions in the work place and dilute the trade union representation and bargaining power. The Government also reiterates that unions who do not meet the required threshold of representativity can merge and operate as one and indicates that some employers have accepted to bargain with trade unions without considering the threshold of 40 per cent. Recalling that the ITUC had previously referred to cases where companies had refused to bargain collectively with unions that did not reach the 40 per cent threshold, the Committee wishes to recall that the determination of the threshold of representativity to designate an exclusive agent for the purpose of negotiating collective agreements, which are designed to be applied 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 considers however that, if no union in a specific negotiating unit meets the required threshold of representativity to be able to negotiate on behalf of all workers, minority trade unions should be able to negotiate, jointly or separately, at least on behalf of their own members. ***The Committee therefore reiterates that it expects that the NLAC and the Government will take the necessary measures to review section 32(A)(g) of the Industrial Disputes Act, in accordance with Article 4 of the Convention, in order to ensure that, if there is no union representing the required percentage to be designated as the collective bargaining agent, the existing unions are given the possibility, jointly or separately, to bargain collectively, at least on behalf of their own members. The Committee requests the Government to provide information in this respect.***

***Article 6. Right to collective bargaining for public service workers other than those engaged in the administration of the State.*** The Committee had previously noted that the procedures regarding the right to collective bargaining of public sector workers did not provide for genuine collective bargaining, but rather established a consultative mechanism. In its last report, the Government had indicated that it was going to take measures with a view to addressing this issue. In that respect, the Committee notes that the Government once again indicates that: (i) the Industrial Disputes Act recognizes the right of private sector trade unions to bargain collectively with the employer or the authority concerned; (ii) in Sri Lanka, the private sector includes government corporations where a large segment of workers are engaged; and (iii) section 32(A) of the Act, which deals with unfair labour practices and collective bargaining, applies not only to trade unions in the private sector but also to trade unions in public corporations. The Government also indicates that the public sector of Sri Lanka constitutes 14 per cent of all employees and that trade unions with significant bargaining power have bargained specific allowances which have led to disproportionate disparities in the public sector with respect to net salaries. The Government expresses the view that legally allowing collective bargaining rights to the public sector employees would be unfavourable to the sustainability of the Government. In that connection, the Committee wishes to reiterate once again that there are arrangements that allow for the conciliation of the balance of public budgets and the protection of the principle of equal remuneration for work of equal value in the public sector, on the one hand, and the recognition of the right to collective bargaining, on the other. It also recalls once again that, in order to give effect to *Article 6* of the Convention, a distinction should be drawn between, on the one hand, public servants who by their functions are directly employed in the administration of the State (such as, in some countries, civil servants in government ministries and other comparable bodies, and ancillary staff), who may be excluded from the scope of the Convention and, on the other hand, all other persons employed by the Government, by public enterprises or autonomous public institutions, who should benefit from the guarantees provided for in the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 172). ***In view of the above, and considering that section 49 of the Industrial Disputes Act excludes state and government employees from the Act's scope of application, the Committee reiterates its previous request to the Government to take the necessary measures to guarantee the right to collective bargaining of the public sector workers covered by the Convention with respect to salaries and other conditions of employment. The Committee also reminds the Government that it may have recourse to the technical assistance of the Office.***

## **Sudan**

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

The Committee notes the establishment in July 2019 of a power-sharing agreement between the country's ruling military council and opposition groups (the Transitional Military Council and the Forces for Freedom and Change) to share power for a three-year period of reforms, followed by elections for a return to full civilian government.

***Article 4 of the Convention. Compulsory arbitration.*** In its previous comments, the Committee had requested the Government to take the necessary steps to amend section 112 of the Labour Code of 1997, in order to ensure that compulsory arbitration is only 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 information

provided in the Government's report from 2018 that the draft Labour Code was in the final stages of revision and that essential services would be defined upon its adoption. **The Committee requests the Government to indicate the steps taken, or envisaged, in respect of the new Labour Code during the period of power-sharing and the measures taken to ensure that compulsory arbitration will only be imposed in the above-mentioned cases.**

**Collective bargaining in practice.** In its previous comments, the Committee requested the Government to provide statistical information on the number of collective agreements in existence, and the sectors and workers covered. The Committee notes that the Government referred in its 2018 report to a bilateral agreement for lorry drivers and another in the private sector, signed in 2016 and 2017 respectively. **The Committee requests the Government to provide statistical information on the overall number of collective agreements in Sudan since 2017, as well as the sectors and workers covered.**

**Trade union rights in export processing zones (EPZs).** **In the absence of any new information concerning the application of the Convention beyond the Government's reiteration that the Labour Code applies to workers in EPZs, the Committee requests the Government to provide specific information on the application of trade union rights in EPZs, including the number of unions and collective agreements in EPZs, as well as a copy of the relevant labour inspection reports.**

**Trade Unions Act.** Lastly, the Committee observed, in its previous comments, that the Trade Unions Act of 2010 contains a number of provisions that 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). **The Committee invites the Government, in full consultation with the organizations of workers and employers, and with technical assistance from the Office should it so wish, to take steps to bring the Trade Unions Act of 2010 into line with the principles of freedom of association, with a view to promoting the full development and utilization of collective bargaining machinery pursuant to Article 4 of the Convention.**

## Trinidad and Tobago

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1963)**

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019, relating to the issues raised by the Committee below.

**Articles 2, 3 and 4 of the Convention. Trade Unions Acts (TUA).** In its previous comments, the Committee requested the Government to take the necessary measures to amend the following provisions of the TUA so as to bring it into full conformity with the Convention: (i) section 10 that requires unions to register, subjects the registration to the permission of the Registrar and provides that in the event of failure to register, the officers or an unregistered trade union are liable to a fine of 40 dollars for every day for which the union remains unregistered; (ii) section 16(4) that allows the Registrar to order an inspection of the books, accounts, securities, funds and documents of the trade union; section 18(1)(d) that enables the Registrar to withdraw or cancel the certificate of registration on certain grounds; and (iv) section 33 that limits the rights of unions to administer their funds in relation to political activities. The Committee notes the Government's indication that it is currently undertaking a legislative reform project aimed at reviewing and amending the TUA among other pieces of legislation. To that end, the Government is engaging with various stakeholders, including through the National Tripartite Stakeholder Consultation. It adds that the comments of the Committee, as well as of the ITUC, are being reflected in a National Policy Position Paper for the Amendment of the TUA, which will then form the basis of discussions through the National Tripartite Stakeholder Consultation on the TUA. Any additional comments and suggestions emanating from the consultative process will be used to finalize the National Policy accordingly. The finalized National Policy will be submitted to the Cabinet and will be the basis for the formulation of the draft legislation to amend the TUA. **The Committee takes note of these developments and trusts that the TUA will be amended in the near future and requests the Government to provide a copy thereof once adopted.**

**Article 3. Right of organizations to organize their activities freely and to formulate their programmes.** In its previous comments, the Committee expressed the hope that the amendment of the Industrial Relations Act (IRA) will address its comments related to sections 59(4)(a) concerning the majority required for a strike; 61(d) and 65 concerning recourse to the courts by either party or by the Ministry of Labour to end a strike; and 67 and 69 concerning services in which industrial action may be prohibited. The Committee notes the Government's indication that a Draft Policy Paper for the Amendment of the IRA was submitted to Cabinet in January 2017 as well as to the National Tripartite Advisory Council (NTAC). The Committee **regrets** the lack of progress in amending the IRA. **The Committee firmly expects that the IRA will be amended without further delay and requests the Government to provide information on all developments in this regard.**

The Committee also requested the Government to clarify how the categories of workers excluded from the scope of the IRA pursuant to section 2(3) (members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, and persons in enterprises with policy and other

managerial responsibilities) enjoyed the rights under *Article 3* of the Convention. The Committee notes the Government's indication that all citizens enjoy the right to freedom of association by virtue of section 4(j) of the Constitution. It also indicates that intrinsic to this right is the freedom of all citizens to form and join trade unions and organize their trade union activities accordingly and that there is nothing in the Constitution, the TUA, or any other law that prevents any person (including those excluded from the definition of workers by virtue of section 2(3) of the IRA) from enjoying their rights under *Article 3* of the Convention. The Government refers to the following examples of trade unions that represent teachers in the country: the Trinidad and Tobago Unified Teacher's Association, which represents approximately 11,000 active teachers and 3,000 retired teachers, has its own rules, drawn up by its members, and holds regular elections; and the West Indies Group of University Teachers, which is recognized by the University of the West Indies as the exclusive bargaining agent for the academic, senior administrative and professional staff.

**Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**  
(ratification: 1963)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019. The Committee notes that, in the first part of its observations, ITUC raises legislative aspects examined by the Committee in the present observation and that, in the second part, ITUC makes reference to allegations of refusal from several employers to negotiate with unions and of anti-union dismissals in a state telecommunications company. ***The Committee requests the Government to provide its comments on the observations mentioned above.***

***Workers covered by the Convention.*** In its previous comments the Committee requested the Government to indicate the manner in which the categories of workers excluded from the Industrial Relations Act (IRA), such as members of the teaching service or employed in a teaching capacity by a university or other institution of higher learning, apprentices, domestic workers, members of staff or employee of the Central Bank, and persons in enterprises with policy and other managerial responsibilities, enjoy the guarantees under the Convention. The Committee notes the Government's indication that this matter is present in the New Draft Policy Paper for the Amendment of the IRA, currently under discussion in the Cabinet, as consideration is being given to extend the scope of workers to include classes of persons now excluded by virtue of section 2(3). The Committee further notes the Government's statement that some of the abovementioned categories of workers exercise in practice the right to collective, giving the example of two unions (Trinidad and Tobago Unified Teachers Association, the West Indies Group of University Teachers) that cover members of teaching service or employed in a teaching capacity by a university or other institution of higher learning, and one (Banking Insurance and General Workers Union) which covers workers of the Central Bank of Trinidad and Tobago. ***While taking due note of the information provided by the Government, the Committee hopes that the amendment of section 2(3) of the IRA will be completed in the near future so as to bring it into conformity with the Convention.***

***Article 4 and 6 of the Convention. Representativeness for the purposes of collective bargaining.*** In its previous comments, the Committee referred to the need to amend section 24(3) of the Civil Service Act, 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 section 24(3) of the Civil Service Act along the lines suggested by the Committee could lead to inter-union rivalry, disruption in work and loss of productivity, which could negatively impact the stable industrial relations climate that currently exists, and for this reason is no longer under consideration. ***In these circumstances, recalling that the Convention is compatible with systems where the most representative union enjoys preferential or exclusive bargaining rights, the Committee once again underlines 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. Highlighting that the Government may avail itself of the technical assistance of the Office, the Committee thus reiterates its firm hope that, in consultation with the representative unions, section 24(3) of the Civil Service Act will be modified in the near future so as to bring it into conformity with the Convention. The Committee requests the Government to indicate any developments in this regard.***

In its previous comments, the Committee also referred 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 recalls 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 should be able to negotiate, jointly or separately, at least on behalf of their own members. The Committee notes the Government's indication that the Industrial Relations (Amendment) Bill, introduced in 2015, lapsed and has been replaced by a new Draft Policy Paper for the Amendment of the IRA, which was submitted to Cabinet in January 2017 and is currently under consideration, having been referred to the National Tripartite Advisory Council (NTAC). ***Given the time that has elapsed since its first observation regarding this matter, the Committee firmly hopes that the amendment of the IRA will be soon completed taking into account the Committee's observations and that measures will be taken to ensure 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 provide a copy of the Bill and to indicate any progress made in this respect.***

## Turkey

### **Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1993)**

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019 and examined by the Committee below. It further notes the observations of the Confederation of Public Employees Trade Unions (KESK) of the Turkish Confederation of Employers Associations (TİSK) transmitted by the Government with its report. The Committee will examine the contents thereof once their translation becomes available. The Committee further notes the observations of the International Transport Workers' Federation (ITF), received on 4 September 2019 and referring to the information submitted by the ITUC. The Committee also notes the TİSK observations received on 2 September 2019.

The Committee recalls that it had previously requested the Government to reply to the 2018 observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ) alleging that workers employed temporarily via private employment agencies could not enjoy trade union rights, as well as to the allegations of pressure exercised on workers, particularly in the public sector, to join unions designated by the employer. The Committee notes the Government's indication that in a "triangular employment contract" arrangement (in which the worker is employed by a temporary employment agency and works for a different employer), workers have the right to organize in the branch of activity in which the employment agency operates. *The Committee requests the Government to provide further information in this regard, including concrete examples as to how the rights of workers in a triangular employment contract arrangement are exercised in practice.* With regard to the allegation of pressure exercised on workers in the public sector, the Government refers to the legislative provisions guaranteeing protection against anti-union discrimination and points out that unions and workers are entitled to administrative and judicial means to contest such actions. It refers, in particular, to the first paragraph of article 118 of the Penal Code, according to which, any person who uses force or threats with the aim of compelling a person to join a trade union or not to join, or to participate in union activities or not to participate, or to resign from a trade union office shall be punished by imprisonment for a term of six months to two years. In addition, according to the Government, in such cases, the legislation provides for compensation equivalent to at least the amount of one year's wage and, in the case of a dismissal, the possibility of reinstatement. Public sector employers have the responsibility to respect the law in discharging their duties and thus are further liable under the public law.

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussion that took place in the Conference Committee in June 2019 concerning the application of the Convention. The Committee observes that the Conference Committee noted with concern the allegations of restrictions placed on workers' organizations to form, join and function and called on the Government to: (i) take all appropriate measures to guarantee that irrespective of trade union affiliation, the right to freedom of association can be exercised in normal conditions with respect for civil liberties and in a climate free of violence, pressure and threats; (ii) ensure that normal judicial procedure and due process are guaranteed to workers' and employers' organizations and their members; (iii) review Act No. 4688, in consultation with the most representative workers' and employers' organizations, in order to allow that all workers without any distinction, including public sector workers, have freedom of association in accordance with the Convention in law and practice; (iv) revise Presidential Decree No. 5 to exclude workers' and employers' organizations from the scope; and (v) ensure that the dissolution of trade unions follows a judicial decision and that the rights of defence in due process are fully guaranteed through an independent judiciary.

*Civil liberties.* The Committee recalls that for a number of years it has been commenting upon the situation of civil liberties in Turkey. Noting the Government's indication that domestic administrative or judicial remedies were available against all acts of the administration, the Committee had requested the Government to indicate whether such remedial channels had been invoked by those affected and with what results. The Committee had also requested the Government to provide information on the measures taken to ensure a climate free from violence, pressure or threats of any kind so that workers and employers could fully and freely exercise their rights under the Convention.

The Committee notes the Government's reiteration that Turkey is a democratic country, upholding the rule of law and that no trade union had ever been closed or their officials suspended or dismissed on grounds of their legitimate activities. The Government indicates that: (i) with the enactment of the Act on Trade Unions and Collective Labour Agreement (Act No. 6356) and substantial amendments to Act No. 4688 on public employees unions in 2013, the rate of unionization has steadily increased, reaching 22 per cent in public and private sectors combined (66.79 per cent public sector; 13.76 per cent private sector). Currently, there are four trade union confederations in the private sector and ten confederations of public servants trade unions. Like all democratic countries, Turkey has a regulatory framework for organizing meetings and demonstrations. When trade union members transgress the law, destroy public and private property and seek to impose their own rules during the meetings and demonstrations, the security forces are obliged to intervene to preserve public order and safety. The Government indicates that marches and demonstrations can be organized with a prior notification, as illustrated by the May Day celebrations, held by all trade unions and confederations in a peaceful manner. The Government further reiterates that fundamental rights and freedoms are protected under the national Constitution. Apart from the right to seek

judicial review against acts of the administration, every person may apply to the Constitutional Court against public authorities for violation of constitutional rights and freedoms. The Government further points out that the allegations mostly concern the period during the state of emergency between July 2016 and July 2018 in the aftermath of a coup attempt and that the problems occurred when the requirements of the state of emergency were ignored and disrespected persistently by some trade unions and their members. Although civil servants do not have the right to strike, strike actions were called for by some public servants' trade unions and their members; and open air meetings and demonstrations were conducted in violation of the provisions of Act on Meetings and Demonstrations No. 2911. Consequently, the disciplinary procedures may have been applied for civil servants involved in politics.

Regarding the alleged excessive use of force by the security forces, the Government points out that it has taken all the necessary measures to prevent the occurrence of such incidences. It explains that these incidences largely occurred for two reasons: (1) infiltration of illegal terrorist organizations into the marches and demonstrations organized by trade unions; and (2) the insistence of some trade unions to organize such meetings in areas not allocated for such purposes. The Government informs that the security forces intervened in 2 per cent of cases out of 40,016 actions and activities in 2016; in 0.8 per cent of cases out of 38,976 activities in 2017; and in 0.7 per cent of cases out of 36,925 activities in 2018. According to the Government, as of 7 May 2019, the interference by the security forces rate is 0.8 per cent and occurs only in cases of violence and attacks against the security forces and citizens and when the life of citizens is affected unbearably.

Finally, the Government indicates that a Judicial Reform Strategy was launched on 30 May 2019 by the President of the Republic. The main aims of this reform include strengthening of the rule of law, effective protection and promotion of rights and freedoms, strengthening the independence of the judiciary and improving impartiality, increasing the transparency of the system, simplifying judicial processes, facilitating access to justice, strengthening the right of defence and efficiently protecting the right to trial in a reasonable time. The Government indicates that a clear and measurable Action Plan will also be prepared and Ministry of Justice will issue annual monitoring reports.

While taking note of the above, the Committee notes with *concern* the observations of the ITUC alleging that since the attempted coup and the severe restrictions on civil liberties imposed by the Government, workers' freedoms and rights have been further restricted (the ITUC denounces, in particular, police crackdowns on protests and the systematic dismissal of workers attempting to organize). The Committee further notes with *concern* the allegation of the murder of a president of the rubber and chemical workers' union Lastik-İş on 13 November 2018 and the sentencing, on 2 November 2018, of 26 trade union members to a suspended five-month imprisonment for "disobeying the law on meetings and demonstrations" after taking part in a protest in March 2016 demanding the recognition of the right to organize at a private company (the ITUC alleges that the protest was violently dispersed by police). The Committee also notes with *concern* the ITUC allegations of criminal prosecution of the following trade union leaders for their legitimate trade union activities: (1) the General Secretary of the teacher's union Eğitim Sen was arrested in May 2019 for attending a press meeting and was thus not allowed to attend the ILO Conference; (2) Kenan Ozturk, the President of the transport workers' union TÜMTİS, and four other union officials were arrested under Act No. 2911 for visiting, in 2017, the unfairly dismissed workers of a cargo company in the Province of Gaziantep and holding a press conference; while they await criminal trial, another TÜMTİS leader, Nurettin Kilicdogan is still in prison; (3) Arzu Çerkezoğlu, the President of the Confederation of Progressive Trade Unions of Turkey (DISK) is facing criminal trial for speaking at the public panel organized by Turkey's opposition party in June 2016; and (4) in May 2019, the prosecution began proceedings against Tarım Orman-ı, the President of the Civil Servants Union of Agriculture, Forestry, Husbandry and Environment for criticising the Government after he publicly defended workers' right to benefit from the public facilities.

The Committee notes that the ITUC expresses its concern at the seriousness and persistence of violations of freedom of association and the Government's authoritarian measures to interfere in trade union affairs and impose heavy restrictions on the right to organize. The ITUC alleges that it has become almost impossible for trade unions in Turkey to operate. It states, in this respect that from 2016, the Government has justified continued violations of civil liberties under the guise of the state of emergency through associated decrees. As a result, about 110,000 public servants and 5,600 academics have been dismissed; about 22,500 workers in private education institutions have had their work permits cancelled; 19 trade unions have been dissolved and about 24,000 workers are undergoing various forms of disciplinary action associated with workers' protests. More than 11,000 KESK representatives and members were suspended from their jobs or dismissed because of their trade union activities, under the pretext of national security and emergency powers. Furthermore, the ITUC states that the Government continues to uphold emergency state laws that allow for arbitrary dissolution of trade union organizations. Decree No. 667 adopted in 2016 provides that "trade unions, federations and confederations ... found to be in connection, communication or adherence to formations threatening national security or to terrorist organizations are banned upon the suggestion of the commission and approval of the minister concerned". The ITUC further alleges that the law makes no distinction between a trade union as an organization with an objective public purpose and individual actors and holds all trade union members guilty by association with a closing down of the union. Although the Government has set up an Inquiry Commission to review its actions, including cases of trade union dissolution, the process does not enjoy the trust of victims and trade unions due to the manner in which it was constituted and the results of the processes so far (the ITUC alleges that it is marred by a lack of institutional independence, long waiting periods, an absence of safeguards allowing individuals to rebut allegations and weak evidence cited in decisions to uphold dismissals). *While noting the*

**Government's reply to some of these allegations, the Committee requests the Government to provide its detailed comments on the remaining lengthy and serious allegations of violations of civil liberties and trade union rights.**

*Article 2 of the Convention. Right of workers, without distinction whatsoever, to establish and join organizations.* In its previous comments, the Committee had noted that section 15 of Act No. 4688, as amended in 2012, excludes senior public employees, magistrates and prison guards from the right to organize. The Committee notes the Government's reiteration that the restrictions under section 15 of the Act are limited to those public services where the disruption of service cannot be compensated, such as security, justice and high-level civil servants. **Recalling that all workers, without distinction whatsoever, shall have the right to establish and join trade unions of their own choosing and that the only possible exceptions from the application of the Convention in this regard pertain to the armed forces and the police, the Committee encourages the Government to take the necessary measures to review section 15 of Act No. 4688, as amended, with a view to ensuring to all public servants the right to form and join organizations of their own choosing. It requests the Government to provide information on all measures taken or envisaged in this respect.**

*Article 3. Right of workers' organizations to organize their activities and formulate their programmes.* The Committee recalls that in its previous comments it had noted 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 Council of Ministers 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 had been requesting the Government to ensure that section 63 of Act No. 6356 was 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 Committee further noted with concern that in 2017, five strikes were suspended including in the glass sector on the grounds of threat to national security, while in 2015 the Turkish Constitutional Court had found a strike suspension in the same sector unconstitutional. The Committee recalled that the right to strike may be restricted or banned only with regard to public servants exercising authority in the name of the State, in essential services in the strict sense of the term, and in situations of acute national or local crisis, for a limited period of time and to the extent necessary to meet the requirements of the situation. Recalling the Constitutional Court ruling that strike suspensions in these sectors were unconstitutional, the Committee had requested the Government to take into consideration the above principles in the application of section 63 of Act No. 6356 and KHK No. 678. It further requested the Government to provide a copy of KHK No. 678. The Committee notes a copy of the Decree and will examine it once the translation thereof is available. The Committee further notes the Government's indication that the power to suspend a strike for 60 days rests with the President when a strike action is harmful to the general health and national security or to urban public transportation of metropolitan municipalities or to economic and financial stability in banking services. The Government indicates that where the strike has been suspended, the High Board of Arbitration makes maximum effort to bring the parties to an agreement. Judicial procedure is open for the stay of execution against the decision of the Board. The Government points out that pursuant to article 138 of the Constitution on "Independence of Courts," no organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of their judicial power, send them circulars, or make recommendations or suggestions. The Committee notes that, according to the ITUC, while the legislation indicates that the measure of suspension should be limited to strikes that may be prejudicial to public health or national security, it has been interpreted in such a broad manner that strikes in non-essential services have also been effectively prohibited. It informs in this respect that in January 2019 a strike called by the ITF-affiliated railway union in Izmir has been postponed under these laws. **The Committee requests the Government to provide its comments thereon. Considering 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 an event of an acute national crisis, the Committee requests the Government to ensure that the above is taken into consideration in the application of section 63 of Act No. 6356 and KHK No. 678.**

The Committee recalls that the ITUC has previously alleged that Decree No. 5 adopted in July 2018 provided that an institution directly accountable to the Office of the President – the State Supervisory Council (DDK) – had been vested with the authority to investigate and audit trade unions, professional associations, foundations and associations at any given time. According to the ITUC, all documents and activities of trade unions may come under investigation without a court order and the DDK has discretion to remove or change the leadership of trade unions. Recalling that any law that gives the authorities extended powers of control of internal functioning of unions beyond the obligation to submit annual financial reports would be incompatible with the Convention, the Committee had requested the Government to transmit a copy of Decree No. 5 in order to make a thorough examination of its conformity with the Convention. It had also requested the Government to provide specific information on any investigations or audits undertaken pursuant to Decree No. 5 and their results, including any dismissal or suspension of trade union leaders. The Committee notes the Government's indication that there has never been an investigation or audit of a trade union organization or suspension of a trade union official by the State Supervisory Council pursuant to Decree No. 5. The Government explains that the Council's powers to investigate with the purpose of ensuring the lawfulness, regular and efficient functioning and improvement of the administration emanates from of article 108 of the Constitution. It further indicates that the Council has no authority to dismiss trade union officials and has never interfered and has no intention to interfere with the internal functioning of the unions. The measures

of dismissal can be taken only by the courts within the framework of existing legal arrangements. Furthermore, suspension is a measure applied to public officials in cases where the provision of public services so requires during an administrative investigation. When a suspension measure needs to be taken for elected officials such as trade union officials, the State Supervisory Council can only propose the application of this measure to the competent authorities which, in the case of trade unions, refers to the trade unions' own supervisory boards and the disciplinary committees. The Committee notes a copy of Decree No. 5 transmitted by the Government and will examine it once its translation is available. ***The Committee requests that the Government continue to provide information on any investigations or audits undertaken by the Council, pursuant to Decree No. 5 or article 108 of the Constitution, and their results including any sanctions assessed.***

*Article 4. Dissolution of trade unions.* The Committee recalls that after the attempted coup of 15 July 2016, Turkey was in a state of acute national crisis, and that an Inquiry Commission was established to examine applications against the dissolution of trade unions by a decree during the state of emergency. The Committee firmly hoped that the Inquiry Commission would be accessible to all the organizations that desired its review and that the Commission, and the administrative courts that reviewed its decisions on appeal, would carefully examine the grounds for the dissolution of trade unions paying due consideration to the principles of freedom of association. It requested the Government to provide information on the number of applications submitted by the dissolved organizations and the outcome of their examination in the Commission. The Committee had further requested the Government to provide information on the number and outcome of appeals against the negative decisions of the Commission concerning dissolved trade unions. The Committee observes that the Government refers only to cases of Cihan-Sen and Aksiyon-İş Confederations. According to the Government, these organizations, together with their affiliated trade unions, were dissolved on the basis of their connection to the FETO terrorist organization that perpetrated the coup attempt to overthrow the democratically elected government. The Government indicates that the cases of the abovementioned organizations are still pending before the Inquiry Commission. ***Recalling that the dissolution and suspension of trade unions constitute extreme forms of interference by the authorities in the activities of organizations, the Committee once again requests the Government to provide information on the number of applications submitted by the dissolved workers' organizations, and the outcome of their examination in the Commission. The Committee further requests the Government to provide information on the number and outcome of appeals against the negative decisions of the Commission concerning dissolved trade unions.***

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)***

The Committee notes the observations of the Confederation of Public Employees Trade Unions (KESK) and of the Turkish Confederation of Employer Associations (TİSK) communicated with the Government's report. The Committee will examine their contents once translation thereof becomes available.

*Previous observations of the social partners.* The Committee had previously requested the Government to provide its comments on the observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ) alleging the partiality in the practice of the Supreme Arbitration Board and inadequate protection of union members against anti-union discrimination pending the authorization of an organization as collective bargaining agent. The Committee notes the information provided by the Government regarding the composition of the Board and the indication that TÜRK-İŞ, the organization which represents the majority of workers covered by the Act on Trade Unions and Collective Bargaining (Act No. 6356), is represented by two members. The Government informs that in its decision making, the Board takes into consideration the country's economic situation, subsistence indices, actual wages, wages paid in comparable workplaces, other working conditions and income components in accordance with the provisions of article 54 of the Constitution, relevant provisions of Act No. 6356 and of the relevant Regulations. The Government also states that the Board establishes balanced collective agreements taking into account the position of workers and employers, as well as its own precedents. As to the alleged inadequate protection of union members against anti-union discrimination, the Government refers to the legislation in force and in particular to sections 23–25 of Act No. 6356, establishing such protection, and sections 118 and 135 of the Penal Code, providing for penalties for obstructing trade union activities by using force, threats or other unlawful acts, and for recording personal data unlawfully, including information on trade union affiliation. The Committee notes the information on the legislative protection against acts of anti-union discrimination and refers to its comments below as concerns the effectiveness of this protection in practice.

*Scope of the Convention.* In its previous comment, the Committee had noted that while the prison staff, like all other public servants were covered by the collective agreements concluded in the public service, this category of workers did not enjoy the right to organize (section 15 of the Act on Public Servants' Trade Unions and Collective Agreement (Act No. 4688)). The Committee had requested the Government to take the necessary measures, including legislative review, with a view to guaranteeing that the prison staff can be effectively represented by the organizations of their own choosing in negotiations which affect them. The Committee notes the Government's indication that when adopting Act No. 4688, the Parliament did not consider it appropriate to grant the right to establish trade unions to those working in the penitentiaries so as to ensure that in the exercise of their duties such workers remain impartial and do not discriminate on the grounds of their philosophical belief, religion, language, race, group, party or trade union affiliation. The Government reiterates that the fact that a public servant does not have the right to form a trade union does not mean that he or she cannot benefit from

a collective agreement and that all public servants in Turkey benefit from the provisions of the relevant collective agreement regardless of whether or not they are union members. **Recalling that all public servants not engaged in the administration of the State must enjoy the rights afforded by the Convention, the Committee once again requests the Government to take the necessary measures, including legislative review of section 15 of Act No. 4688, with a view to guaranteeing that the prison staff can be effectively represented by the organizations of their own choosing in negotiations which affect them.**

*Articles 1 and 3 of the Convention. Adequate protection against anti-union discrimination.* Following up on the recommendations of the June 2013 Committee on the Application of Standards of the International Labour Conference (hereafter, the Conference Committee), the Committee has been requesting the Government to establish a system for collecting data on anti-union discrimination in both private and public sectors. Noting the Government's indication that preparations for the establishment of the data collecting system were underway within the framework of the "Improving Social Dialogue in Working Life" project, the Committee had requested the Government to provide information on the progress made in the establishment of such system. The Committee notes with **regret** the Government's indication that while a report entitled "Methods for Establishing Data Collection System on Trade Union Discrimination in Private and Public Sectors and a Model Proposal for Turkey" was prepared and a workshop was organized on 3 October 2018 at the ILO Ankara Office with the participation of the social partners and representatives of the institutions expected to contribute to this issue, no concrete model for collecting anti-union discrimination data was found. **The Committee is therefore bound to reiterate the June 2013 request of the Conference Committee and expects the Government to provide in its next report information on the measures taken or envisaged in this respect.**

*Articles 1, 2 and 3. Massive dismissals in the public sector under the state of emergency decrees.* In its previous comment, the Committee took note of the information on the high number of suspensions and dismissals of trade union members and officials under the state of emergency. It noted in this respect the allegation that the state of emergency was used by the political power to target and punish certain trade unions and to exert pressure on oppositional trade unions through dismissals of their members. Firmly hoping that the Inquiry Commission (established to review such dismissals) has the necessary means to examine the relevant facts, the Committee had requested the Government to provide information on the functioning of the Commission and to indicate the number of applications received from trade union members and officials, and the outcome of their examination. The Committee had also requested the Government to provide information on the number and outcome of appeals against the negative decisions of the Commission concerning trade union members and officials. The Committee notes the Government's indication that as of 29 August 2019, there were 126,200 applications submitted to the Inquiry Commission. Since 22 December 2017, the Commission delivered its decisions in respect of 84,300 applications, out of which, 6,700 were accepted and 77,600 were rejected; 41,900 applications are still pending. The Government indicates that the Commission delivers individualized and reasoned decisions following a speedy and extensive examination. The Government further indicates that although KESK alleged that it was targeted or discriminated against, out of the 125,678 dismissals, KESK itself claims around 4,000 dismissals of its members, and out of 588 decisions of the Inquiry Commission regarding KESK members, 199 applications were accepted for reinstatement. The Government points out that the rate of positive decisions in relation to KESK members is one in three, which is above the average rate. With reference to its observation on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee notes that according to the International Trade Union Confederation, more than 11,000 KESK representatives and members were suspended from their jobs or dismissed because of their trade union activities. **The Committee requests the Government to provide its comments thereon.**

While noting the general statistics provided by the Government, the Committee **regrets** the absence of specific information, with the exception regarding KESK members, on the number of trade union members and officials involved. Regarding KESK, the Committee expresses its **concern** that according to the Government, only about 15 per cent of cases involving its members have been examined and observes that among those only one third were accepted for reinstatement. It recalls from the previous examination that in case of a negative decision, the applicants can have recourse to the competent administrative courts in Ankara. The Committee **regrets** the absence of information regarding the number and outcome of appeals against the negative decisions of the Inquiry Commission concerning trade union members and officials. **The Committee reiterates its firm hope that the Inquiry Commission and the administrative courts that review its decisions will carefully 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 once again requests the Government to provide specific information on the number of applications received from trade union members and officials, the outcome of their examination by the Inquiry Commission and on the number and outcome of appeals against the negative decisions of the Commission concerning trade union members and officials.**

*Article 1. Anti-union discrimination in the course of employment.* The Committee recalls the observations of KESK and the Education and Science Workers Union of Turkey (EĞİTİM SEN), alleging that hundreds of their members and affiliates, mostly in the education sector, were transferred against their will from their workplaces in 2016 (at least 122 transfers, mainly for participation in trade union activities and events) and in 2017 (1,267 transfers, 1,190 of whom from the education sector). It further recalls the observations of KESK alleging that the so-called social equilibrium compensation agreements concluded pursuant to section 32 of Act No. 4688 contain provisions that discriminate against members of minority unions as they impose higher fees on them and make the distribution of benefits dependent on the clear disciplinary record of the employee. KESK referred in this regard to agreements concluded in Gaziantep and Kocaeli,

where Bem-Bir-Sen, an affiliate organization of the allegedly pro-government MEMUR SEN confederation represented the majority, and TİM BEL SEN, a KESK affiliate, was the minority union. KESK indicated that a number of affected employees had challenged the discriminatory provisions in court. The Committee had requested the Government to take the necessary measures to prevent the occurrence of anti-union transfers and demotions in the future, and to ensure that if any anti-union discriminatory measures remained in force, they were revoked immediately. It had also requested the Government to reply to the KESK allegation with regard to the inclusion of discriminatory clauses in certain social equilibrium compensation agreements. The Committee notes the Government's indication that as a result of court rulings on the issue, social equilibrium membership contributions are now collected equally from all employees without any regard to their trade union affiliation and social equilibrium compensation payments are made equally in the same manner. Furthermore, the employees with a disciplinary record in the above-mentioned municipalities benefit equally from the social equilibrium compensation payments. With regard to the alleged anti-union discrimination, the Government emphasises that section 18 of Act No. 4688 provides for sufficient protection and guarantees for public servants who are trade union executives or members. Pursuant to this section, public employers cannot take discriminatory measures against public servants on the grounds of their trade union membership. Public servants cannot be dismissed or treated differently due to their participation in the legitimate activities of trade unions or confederations. Moreover, public employers cannot change the workplace of trade union executives (i.e., shop stewards, union's workplace representatives, union's provincial and district representatives, officials of unions and their branches) without providing clear and precise reasons therefor. ***While taking note of the information provided on the legislative protection against anti-union acts, the Committee once again requests the Government to take the necessary measures to prevent measures of transfer or demotions of a discriminatory nature and on anti-union grounds and to ensure that measures of this nature that are still in force are immediately repealed.***

***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. It noted in this respect that pursuant to section 34 of Act No. 6356, collective work agreement may cover one or more than one workplace in the same branch of activity, thereby making cross-sector bargaining in the private sector impossible. The Committee had requested the Government to consider, in consultation with the social partners, the amendment of section 34 of Act No. 6356 in a manner so as to ensure that it does 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 the Government's indication that: Act No. 6356 entered into force in 2012 following negotiations with the social partners; section 34 of the Act was drafted taking into account their views; there have been no problems regarding its implementation; and no request for its amendment have been submitted by the social partners. ***Recalling that in accordance with Article 4 of the Convention, collective bargaining must be promoted at all levels, the Committee once again requests the Government to consider, in consultation with the social partners, the amendment of section 34 of Act No. 6356 so as 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.*** The Committee recalls that in its previous comments, it had noted that section 41(1) of Act No. 6356 initially set out the following requirement for becoming a collective bargaining agent: the union should represent at least 1 per cent (progressively, 3 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. It further recalls that the 3 per cent threshold was decreased to 1 per cent by Act No. 6552 of 10 September 2014 and that additionally, section 1 of Act No. 6356 stipulating that the 1 per cent membership threshold should be applied as 3 per cent with regard to trade unions that are not members of confederations participating in the Economic and Social Council was repealed by the Constitutional Court. Therefore, the 3 per cent branch threshold was reduced to 1 per cent with regard to all trade unions. Furthermore, the Committee recalls that until 6 September 2018, legal exemptions from the branch threshold requirement were granted to three categories of previously authorized trade unions, so as to prevent the loss of their authorization for collective bargaining purposes. Recalling the concerns that had been expressed by several workers' organizations in relation to the perpetuation of the double threshold and noting that the exemption granted to the previously authorized unions was provisional, the Committee had requested the Government to indicate whether the exemption had been extended beyond 6 September 2018, and the impact of the decision made in this regard on the capacity of previously authorized organizations to bargain collectively. It had further requested the Government to continue reviewing the impact of the perpetuation of the branch threshold requirement on the trade union movement and the national collective bargaining machinery as a whole in full consultation with the social partners, and should it be confirmed that the perpetuation of the 1 per cent threshold had a negative impact on the coverage of the national collective bargaining machinery, revise the law with a view to its removal.

The Committee recalls that the Committee on Freedom of Association has referred to it the legislative aspects of Case No. 3021 (see 391st Report, October–November 2019, paragraph 70) concerning the impact of application of Act No. 6356 on the trade union movement and the national collective bargaining machinery as a whole. The Committee notes the Government's indication that the exemption granted to trade unions under second paragraph of the provisional section 6 of Act No. 6356 ended on 6 September 2018. Pursuant to the requirement of Act No. 6356, the trade unions whose exemption is ended shall receive a certificate of authorization to conclude collective labour agreement if the number of their members exceeds 1 per cent of the total number of workers employed in the branch of activity to which the workplace or the enterprise

belongs and represents more than 50 per cent of the employees in the workplace or more than 40 per cent of the employees in the enterprise. The Government points out that Act No. 6356 was drafted in consultation with the social partners and taking into consideration the universal principles regarding trade union rights and freedoms. Following the entry into force of the arrangements outlined in the Act, the Government proceeded to obtain the views and evaluations of the social partners. While some of the social partners asked for the continuation of the branch level threshold, others were of the view that it needs to be reduced or abolished. Currently, there is no agreement on this issue. The Government indicates, however, that should a consensus be achieved on this matter, steps will be taken to make the necessary arrangements. ***Noting that that the provisional exemption has not been extended beyond September 2018, the Committee requests the Government to provide information on the impact of the non-extension on the capacity of previously authorized organizations to bargain collectively and to indicate the status of the collective agreements concluded by them. It also requests the Government to continue monitoring the impact of the perpetuation of the branch threshold requirement on the trade union movement and the national collective bargaining machinery as a whole in full consultation with the social partners and to provide information in this regard.***

With regard to the workplace and enterprise representativeness thresholds, in its previous comments, the Committee had noted section 42(3) of Act No. 6356, which provides that if it is 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 section 45(1), which 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 had requested the Government to take the necessary measures to amend the legislation, in consultation with the social partners, and to provide information in this respect. The Committee notes the Government’s indication that the issue of the amendment of the collective bargaining system was discussed with the social partners within the framework of the project of “Improving Social Dialogue in Working Life” but no model could be agreed upon by everyone. The Government declares its readiness to consider the proposal for the amendment to the legislation if put forward by the social partners and if such a proposal represents a consensus. ***Recalling that it is the responsibility of the Government to ensure the application of the Convention it had ratified, the Committee once again requests the Government to amend the legislation so as to ensure that 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. It requests the Government to provide information on all measures taken or envisaged in this regard.***

In its previous comment, the Committee had also requested the Government to provide information on any use of sections 46(2), 47(2), 49(1), 51(1), 60(1) and (4), 61(3) and 63(3) of Act No. 6356 that provide for a variety of situations in which the certificate of competence to bargain may be withdrawn by the authorities for a variety of reasons (the failure to call on the other party to start negotiations within 15 days of receiving the certificate of competence; the failure to attend the first collective bargaining meeting or failure to begin collective bargaining within 30 days from the date of the call; failure to notify a dispute to the relevant authority within six working days; failure to apply to the High Arbitration Board; failure to take a strike decision or to begin a strike in accordance with the legislative requirements; and failure to reach an agreement at the end of the term of strike postponement) and to continue to review their application with the social partners concerned with a view to their eventual amendment, favouring collective bargaining where the parties so desire. The Committee notes the Government’s indication that while no issues have been raised regarding the implementation in practice of the above-mentioned provisions it would consider their amendment if such a proposal is put forward by the social partners.

***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 previously noted that section 28 of Act No. 4688, as amended in 2012, restricts 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. The Committee notes that the Government reiterates its previous indication that the demands of the unions and their confederations that do not fall within the category of financial and social rights are received and considered at the other, more appropriate platforms established beside collective bargaining. The Committee is therefore bound to once again recall that 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. The Committee wishes to further recall however, that the Convention is compatible with systems requiring competent authorities’ approval of certain labour conditions or financial clauses of collective agreements concerning the public sector, as long as the authorities respect the agreement adopted. ***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.* In its previous comment, the Committee 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. In this respect, the proposals for the general section of the Collective Agreement were prepared by the confederation members of PSUD and the proposals for collective agreements in each service branch were made by the relevant branch trade union representative member of PSUD. The Committee had also noted the observation of the Turkish Confederation of Public Workers Associations (Türkiye KAMU-SEN), indicating that many of the proposals of authorized unions in the branch were accepted as proposals relating to the general section of the agreement meaning that they should be presented by a confederation pursuant to the provisions of section 29 and that this mechanism deprived the branch unions from the capacity to directly exercise their right to make proposals. Noting that although the most representative unions in the branch were represented in PSUD and took part in bargaining within branch-specific technical committees, their role within PSUD was restricted in that they were not entitled to make proposals for collective agreements, in particular where their demands were qualified as general or related to more than one service branch, the Committee had requested the Government to ensure that these unions can make general proposals. The Committee notes the Government's indication that collective bargaining is held every two years in order to discuss the issues that concern service branches and general issues together. On that occasion, collective bargaining offers for all service branches are determined separately by the authorized trade unions having the highest number of members in that service branch. Naturally, the proposals of the trade unions are determined exclusively for the service branches due to the differences in the service branches and the public servants within the scope of those branches and discussed in the special committees established separately for the service branches by the Heads of PED and PSUD. **Considering that where joint bodies within which collective agreements must be concluded are set up, and the conditions imposed by law for participation in these bodies are such as to prevent a trade union which would be the most representative of its branch of activity from being associated in the work of the said bodies, the principles of the Convention are impaired, the Committee again requests the Government to ensure that Act No. 4688 and its application 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.**

*Collective bargaining in the public sector. Public Employee Arbitration Board.* In its previous comment, the Committee had noted that pursuant to sections 29, 33 and 34 of Act No. 4688, 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 Employees' Arbitration Board. The Board decisions were final and had the same effect and force as the collective agreement. The Committee had noted that seven of the 11 members of the Board including the chair were designated by the President of the Republic and considered that this selection process could create doubts as to the independence and impartiality of the Board. The Committee had therefore 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 Committee notes that the Government confirms that in addition to the Head of the Board, its five other members with knowledge in public administration, public finances and public personnel regime, as well as one member among the academics proposed by the competent confederations, are appointed by the President. **The Committee 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 2020.]*

### **Workers' Representatives Convention, 1971 (No. 135) (ratification: 1993)**

The Committee notes the observations of the Turkish Confederation of Employers' Associations (TİSK) communicated with the Government's report.

*Article 1 of the Convention. Massive dismissals of public servants.* The Committee had previously noted that following the coup attempt in July 2016, a great number of public servants, including an unknown number of trade union representatives, were dismissed on the basis of emergency decrees. In these circumstances, the Committee had requested the Government to ensure that workers' representatives were not dismissed on the basis of their status or activities as a workers' representative or of their union membership or participation in union activities, in so far as they acted in conformity with existing laws. In case of existence of grounds to believe that a workers' representative had been involved in illegal activities, the Committee had requested the Government to ensure that all guarantees of due process were fully afforded. The Committee had further requested the Government to provide statistical information on the number of union representatives affected by the dismissals and suspensions based on emergency decrees. The Committee had noted the establishment, for a two-year period, of an ad hoc Inquiry Commission to review the dismissals based on the state of emergency decrees and, in this respect, noted with concern that the Commission would have to deal with a very significant caseload in a relatively short period of time. The Committee had requested the Government to ensure that the Inquiry Commission was accessible to all dismissed workers' representatives who desire its review, and that it was endowed with the adequate capacity, resources and time to conduct the review process promptly, impartially and expeditiously. The Committee had further requested the Government to ensure that the dismissed workers' representatives did not bear alone the burden of proving that the dismissals were discriminatory, by requiring the employers or the relevant authorities to prove

that the decision to dismiss them was justified based on other grounds. Finally, the Committee had requested the Government to provide statistical information on the number of applications lodged and processed in the Inquiry Commission and administrative courts by affected workers' representatives and to indicate the outcome of those procedures.

The Committee notes the Government's indication that the dismissal of public servants from public service, which may include some trade union representatives, by the state of emergency decrees, is based on the grounds of their membership, affiliation or connection to terrorist organizations, following the coup attempt in 2016. It reiterates that after the coup attempt, the Government issued state of emergency decrees to eliminate the influence of terrorist organizations, such as FETO, PKK or ISIS (DAISH). According to the Government, these terrorist organizations, in particular the one that perpetrated the said coup attempt to overthrow the democratically elected legitimate government in Turkey, established themselves within the state structure of the central and local government institutions and agencies, particularly in the armed forces, police, judiciary and educational institutions. The Government further reiterates that public servants are obliged, on the one hand, to carry out their duties with loyalty to the Constitution and the existing laws, in a manner respecting the principles of objectivity and equality, while on the other, not to join or assist any movement, group, organization or association that carry out illegal activities. It points out that being a public servant or a trade union member or representative or even a trade union officer will not ensure immunity from prosecution for illegal activities. The Government further explains that dismissal or suspension procedures of the public servants who are deemed to be member or affiliate of or in liaison or cohort with the terrorist organizations or the structures, entities or groups that are considered by the National Security Council as operating against the national security of the State are conducted in conformity with the provisions of the State of Emergency Act No. 2935 and Civil Servants Act No. 657 and the Decrees with the Force of Law. The Government refers in this respect to the judgement of the Constitutional Court of Turkey in a case involving the dismissal of two members of its court: "although the coup attempt was *de facto* prevented, taking measures in order to eliminate the dangers against the democratic constitutional order, fundamental rights and freedoms and national security, and to prevent future attempts is not only within the scope of the state's authority, it is also a duty and responsibility towards individuals and society that cannot be postponed [...] in some cases, it may not be possible for the state to eliminate the threats against democratic constitutional order, fundamental rights and freedoms and national security through ordinary administrative procedures. Accordingly, it may be necessary to impose extraordinary administrative procedures until these threats are eliminated".

The Government explains that the Inquiry Commission was established to ensure that those affected by the state of emergency decrees enjoyed due process of law. Public servants dismissed directly by a decree with the force of law can apply to the Commission and the applicants whose application is rejected by the Commission may bring their case to the competent administrative courts. The Government reiterates that a dismissal through a decree with the force of law is a measure applied only during the state of emergency and all of the judicial recourse avenues are open against the decisions of the Inquiry Commission through the judicial system, including the Constitutional Court of Turkey and the European Court of Human Rights. The Inquiry Commission's period of office is renewable by one year after the initial two-year period. Hence, the operation of the Commission will continue until its work has been fully carried out. All dismissed public servants, including trade union representatives, have the right to apply to the Inquiry Commission for a review of their dismissals; the only exception being the members of the judiciary whose application should be made to the judicial bodies indicated in the relevant decree and law. The Commission's activities can be followed by the public through its announcements on its web page. Apart from its seven members, the Commission employs a total of 250 persons, 80 of whom are judges, experts and inspectors employed as rapporteurs. A data processing infrastructure for the application process has been established and all information is recorded in this system. The Commission examines cases on the basis of documents provided by the relevant public institutions. The decisions delivered by the judicial authorities are followed up through National Judiciary Informatics System (UYAP) system.

Following the examination, the Commission may dismiss or accept the application. In case of acceptance of the application concerning those who were dismissed from the public service, profession or organization, the decision is notified to the public organization/institution where the applicant was last employed for his/her reinstatement within 15 days. In case of a rejection, the applicant can have recourse to the competent administrative courts. With regard to burden of proof, the Commission demands from the relevant institution to submit the documents and information showing the applicant's membership, affiliation or connection to a terrorist organization. If no such document and information is provided and no investigation or prosecution exists about the applicant, then the Commission accepts the application for reinstatement. The decisions of the Commission are transmitted to the relevant institution or organization, which then appoints the person whose reinstatement was pronounced. The Council of Judges and Prosecutors may bring an annulment action before the Ankara Administrative Court against the decision of the Commission and the relevant institution or organization within a period of 60 days as from the date of notification of the decision.

The Government indicates that the Commission delivers individualized and reasoned decisions in respect of approximately 1,200 applications per week. It informs that 131,922 measures were taken through the state of emergency decrees, including the dismissal from public service of 125,678 persons. As of 29 August 2019, the Commission pronounced itself on 84,300 applications out of 126,200 applications received. Among these 84,300 applications examined, 77,600 were rejected. Currently, there are 41,900 applications still pending. The Government points out that 6,700 persons were reinstated. The Government indicates that no statistical information is available on the number of trade union representatives

affected and the number of applications to the courts. The Government emphasizes that the Commission undertakes its work with no other intention than to protect the democratic constitutional order, rule of law and the rights of individuals and works in a transparent manner respecting the rights of individuals. According to the Government, due process of law is functioning well and every dismissed public servant has access to legal remedies.

The Committee takes note of the information provided by the Government. The Committee recalls that *Article 1* of the Convention requires the effective protection of workers' representatives against dismissals based on their activities as a workers' representative or on union membership or participation in union activities, in so far as they act in conformity with existing laws or collective agreements or other jointly agreed arrangements. The Committee further recalls that in this respect it had requested the Government to ensure that the dismissed workers' representatives did not bear alone the burden of proving that the dismissals were discriminatory. ***While noting the information provided by the Government in this respect, the Committee requests it to provide further details on the handling of cases where workers' representatives allege before the Inquiry Commission or the administrative court that they were subject to a dismissal based on their legitimate trade union activity or affiliation.*** The Committee notes with *regret* that no statistical information is available on the number of trade union representatives affected and the number of applications made by them to courts and points out that this information is crucial in order to assess whether the protection of workers' representatives afforded by the Convention is effectively ensured. ***Noting the detailed information provided by the Government regarding the data processing system established for the purpose of the Inquiry Commission, the Committee urges the Government to take the necessary measures in order to ensure that it allows to retrieve information on the number of trade union representatives affected. The Committee once again requests the Government to provide this information and to indicate, in particular, the number of trade union representatives reinstated following the decision of the Commission and the number of appeals to the administrative courts, as well as the outcome of such appeals.***

## Uganda

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2005)***

The Committee recalls that, in reply to the International Trade Union Confederation's observations of 2012 and 2013 relating to allegations of restrictions to freedom of assembly imposed by the Public Order Management Act 2013, the Government had indicated that the Act was applied so as to ensure that public gatherings take place in harmony and peace. The Committee had noted that the Act provides that organizers of public meetings, who fail to comply with its requirements (including time frames for giving notice of the meetings and time limits during which public meetings can take place), commit an act of disobedience of statutory duty which is punishable under the Penal Code with imprisonment, and had requested the Government to discuss with the social partners the application and impact of the Public Order Management Act and to provide information on the outcome of the discussions. The Committee notes the Government's statement that it will implement the Committee's recommendation with urgency. ***Consistent with this statement, the Committee expects the Government will soon be in a position to provide information on developments in this regard.***

*Articles 2 and 3 of the Convention. Legislative matters.* In its previous comments, 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 recalled that registration procedures that are overly lengthy may constitute serious obstacles to the establishment of organizations, and had requested the Government to take the necessary measures to amend section 18 of the LUA so as 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 recalled that: (i) any removal or suspension of trade union officers, which is not the result of an internal decision of the trade union, a vote by members, or normal judicial proceedings, seriously interferes with the right of trade unions to elect their representatives in full freedom, enshrined in *Article 3* of the Convention; (ii) provisions which permit the suspension and removal of trade union officers by the administrative authorities are incompatible with the Convention; and (iii) only the conviction on account of offences, the nature of which is such as to prejudice the aptitude and integrity required to exercise trade union office may constitute grounds for disqualification from holding such office. The Committee had requested the Government to take steps to amend section 23(1) of the LUA so as to ensure that the Registrar may only remove or suspend trade union officers after conclusion of the judicial proceedings and only for reasons in line with the principle cited above.
- Section 31(1) (eligibility condition of being employed in the relevant occupation). The Committee had noted the Government's indication of its intention to contact the trade unions so that they could express their views on this issue, and had requested it to take the necessary measures to amend section 31(1) of the LUA in conjunction with such consultations so as to introduce 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 had requested the Government to provide information regarding the steps taken to repeal section 33 to guarantee the right of organizations to organize their administration.

The Committee welcomes the Government’s indication that it has initiated the process to review the LUA and that the Committee’s recommendations will be taken into consideration. ***The Committee requests the Government to provide information on any developments in this regard.***

In its previous comments, the Committee had also requested the Government to take the necessary measures to amend section 29(2) of the Labour Disputes (Arbitration and Settlement) Act of 2006 (LDASA) so as 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 notes the Government’s indication that an amendment bill 2019 to the LDASA is before Parliament for discussion. ***Trusting that section 29(2) of the LDASA will be amended 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 requests the Government to provide information on any developments in this regard.***

Finally, concerning Schedule 2 of the LDASA (list of essential services), the Committee had noted the Government’s indication that the harmonization of the list of essential services in the LDASA with that in the 2008 Public Service Act (Negotiating, Consultative and Disputes Settlement Machinery) was going to be undertaken by the new Labour Advisory Board, which was appointed in October 2015, and had therefore requested the Government to provide information on this matter. The Committee notes the Government’s indication that an amendment bill 2019 to the LDASA is before Parliament for discussion. ***Trusting that the harmonization of the list of essential services will be part of the new legislation, the Committee requests the Government to provide information on any further developments in this regard.***

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (ratification: 1963)**

The Committee had requested the Government to provide detailed comments on the allegations of anti-union discrimination practices, in reply to the observations made by the International Trade Union Confederation and the National Organization of Trade Unions of Uganda in 2014 and 2012 respectively. ***In the absence of a reply in the report from the Government, the Committee reiterates its previous request.***

***Article 4 of the Convention. Promotion of collective bargaining.*** In its previous comments, the Committee had noted that under section 7 of the Labour Unions Act No. 7 of 2006 (LUA), trade union federations do not have the right to engage in collective bargaining. The Committee had recalled that the right to collective bargaining should also be granted to federations and confederations of trade unions and had therefore requested the Government to amend section 7 of the LUA. The Committee notes the Government’s indication that it has initiated the process to review the LUA and that the social partners have been requested to submit their comments on areas that require review, including section 7. ***The Committee requests the Government to take the necessary measures to ensure that the revised legislation will recognize the right of trade union federations and confederations to engage in collective bargaining.***

***Compulsory arbitration.*** The Committee had previously noted that sections 5(1) and (3), and 27 of the Labour Disputes (Arbitration and Settlement) Act of 2006 (LDASA) establish the referral of non-resolved disputes to compulsory arbitration by or at the request of any party, and had recalled that compulsory 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 had further noted the Government’s indication that consultations with the social partners were ongoing with respect to amendments to these provisions, and had therefore expressed the hope that the Government would take the necessary steps to amend these provisions so as to ensure that arbitration in situations other than those mentioned can take place only at the request of both parties involved in the dispute. The Committee notes the Government’s indication that under section 6 of the LDASA where there are any arrangements by conciliation or arbitration in a trade or industry between the parties, the Labour Officer shall not refer the matter to the Industrial Court but shall ensure that the parties follow the procedures for settling the dispute laid out in the conciliation or arbitration agreement, which apply to the dispute. The Committee observes that the imposition of arbitration with compulsory effects, either directly under the law, or by administrative decision or at the initiative of one of the parties, in cases where the parties have not reached agreement, or following a certain number of days of a strike, is one of the most radical forms of intervention by the authorities in collective bargaining. ***In these circumstances, the Committee expects that the Government will, in full consultation with the social partners, take all the necessary measures to amend sections 5(1) and (3), and 27 of the LDASA, 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 on any developments in this regard.***

***Articles 4 and 6. Promotion of collective bargaining for public servants not engaged in the administration of the State.*** The Committee had previously requested the Government to ensure the effective application in practice of the collective bargaining rights accorded by the 2008 Public Service Act (Negotiating, Consultative and Disputes Settlement Machinery) in the public service at least with respect to all public servants and public employees not engaged in the

administration of the State. The Committee welcomes the Government's indication that on 22 June 2018, the Council, which is composed of ten Public Service Labour Unions, concluded a collective bargaining discussion for salary increase for the period of five years, starting from the financial year of 2018–19. The Government further states that the agreement is in the signing process. *The Committee requests the Government to provide information on the outcome of this negotiation.*

## Uruguay

### **Right to Organise and Collective Bargaining Convention, 1949 (No. 98)** (ratification: 1954)

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019. It in this regard, it notes the joint observations of the National Chamber of Commerce and Services of Uruguay (CNCS), the Chamber of Industries of Uruguay (CIU) and the International Organisation of Employers (IOE), received on 1 September and 22 November 2019, which, like the observations of the ITUC, concern matters addressed by the Committee in this comment.

### **Follow-up to the conclusions of the Committee on the Application of Standards** (International Labour Conference, 108th Session, June 2019)

The Committee notes the discussions that took place in the Committee on the Application of Standards of the Conference (hereinafter: the Conference Committee), in June 2019, on Uruguay's application of the Convention. The Committee notes that the Conference Committee urged the Government to: (i) initiate legislative measures by 1 November 2019, after full consultation with the most representative employers' and workers' organizations and taking into consideration the recommendation of the ILO supervisory bodies, in order to guarantee the full compliance of national law and practice with the Convention; and (ii) prepare, in consultation with the most representative employers' and workers' organizations, a report to be submitted to the Committee of Experts before 1 September 2019, providing detailed information on actions undertaken to make progress in the full application of the Convention in law and practice.

*Article 4 of the Convention. Promotion of free and voluntary bargaining.* For several years, the Committee, together with the Committee on Freedom of Association (Case No. 2699), 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 its previous comment, the Committee noted that, in 2015, 2016 and 2017, the Government submitted to the social partners several proposals for legislative amendments, which the Government indicated had not achieved the necessary agreement between the parties. The Committee considered that, although the Government's proposals did not include amendments or clarifications regarding the competences of the Wage Boards, in relation to adjustments to wages that are above the minimum in relation to the occupational category and working conditions, several of the amendments envisaged were in compliance with the obligations arising out of *Article 4* of the Convention to promote free and voluntary collective bargaining. Underlining the contribution that such amendments could make in order to align Act No. 18566 to the Convention, the Committee requested the Government, after submitting the text for consultation with the social partners, to submit a bill to Parliament ensuring the full compliance of national law and practice with the Convention.

The Committee observes that the Government has provided a report in which it details the measures taken in order to advance with the application of the Convention in legislation and in practice. The Committee notes the Government's indication that: (i) following the discussion that took place in the Conference Committee, five tripartite meetings were held and, in the course of these meetings, it submitted to the social partners two proposals for amendments to Act No. 18566; (ii) on 29 October 2019, the Government submitted to Parliament a bill amending some aspects of Act No. 18566 of 11 September 2009; and (iii) the bill combines the proposals the Government made from 2015 up to the present time. The Committee notes that the Government has provided a copy of the bill and that the preamble to the bill states that it incorporates some of the Committee's main observations and that the Inter-Union Assembly of Workers – Workers' National Convention (PIT-CNT), the CNCS and the CIU had been consulted, in various tripartite bodies, on the general subject matter addressed in the bill. The Committee observes that the bill proposes 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 High 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 the continuing effect is subject to negotiation; and

- clarify that the Wage Boards' decisions and collective agreements do not require the executive authority's authorization, approval or adoption in order to be recorded and published.

The Committee notes that, in their observations, the CNCS, CIU and IOE indicate that these proposed amendments are insufficient and that some of them should have been drafted differently. They also indicate that in the tripartite meetings that took place, the Government proposed to discuss a number of matters, and indicated that it would prepare a bill, so long as consensus was reached. In this regard, they affirm that, until the date on which the Government submitted its report, an agreement on the methodology had not been reached, making it practically unworkable to consult on a possible bill prescribed by the Conference Committee. The Committee also notes that, according to the Government's report, at the tripartite meetings that took place, the PIT-CNT indicated that, although it was willing to engage in dialogue, it thought that Act No. 18566 did not warrant amendment. For its part, in its observations, the ITUC indicates that more than 90 per cent of workers in Uruguay are protected by collective agreements and that care is required when taking measures that could destabilize this effective mechanism.

The Committee notes that the proposed amendments contained in the bill had already been submitted in the Government's previous report. In its previous comments, the Committee considered that those amendments were in compliance with the requirement of *Article 4* of the Convention to promote free and voluntary collective bargaining. The Committee recognizes the efforts made by the Government to comply with the Conference Committee's request, since it initiated legislative measures before 1 November 2019 and submitted to Parliament a bill containing amendments addressing a range of observations that the Committee has been making over a number of years.

However, the Committee notes with *regret* that, despite its repeated comments and the recommendations of the Committee on Freedom of Association, the bill does not propose amendments or clarifications regarding the competence of the Wage Boards 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 notes that, in the preamble to the bill, the Government explains that the article was not amended because in the Wage Boards the working conditions must be agreed by the workers' and employers' representatives and the executive authority's activity is limited to the determination of wage content. The Committee also notes that, according to the Government, in the tripartite meetings that took place before the bill was submitted, the PIT-CNT had been opposed to the amendment to section 12 of Act No. 18566.

The Committee notes that, in their observations, the CNCS, CIU and IOE express concern that the bill omits any reference to the amendment of the competence of the Wage Boards (section 12 of Act 18566). In this respect, the CNCS, CIU and IOE emphasize that the intervention of the Ministry of Labour and Social Security (Ministry of Labour) in the Wage Boards in the setting of wage increases in the private sector constitutes genuine interference; that the final decision on the increase also lies with the Ministry of Labour since, so long as there is no tripartite agreement, this Ministry, together with the Ministry of Economic and Financial Affairs, establishes the increase by Decree and that, in practice, before each Wage Board is convened, the Ministry of Labour is involved in the negotiation of all the contents (including the working conditions), not only on wages.

In this regard, the Committee once again recalls 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 working conditions shall result from an agreement between employers or employers' organizations and workers' organizations. The Committee also emphasizes 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.

*While it trusts that the advances contained in the bill submitted by the Government will be incorporated into the current legislation as soon as possible, the Committee requests the Government to take additional measures, in consultation with the social partners, to ensure both the free and voluntary nature of collective bargaining and the continued effective promotion thereof. The Committee requests the Government to provide information on all progress made in this respect and recalls that it may continue to avail itself of the technical assistance of the Office.*

## Zimbabwe

### ***Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 2003)***

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

#### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)***

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU), received on 30 August 2019, and of the International Trade Union Confederation (ITUC), received on 1 September 2019, raising issues addressed by the Committee below.

The Committee notes the discussion that took place in the Conference Committee in June 2019 concerning the application of the Convention. The Committee observes that the Conference Committee noted concern regarding the Government's failure to implement specific elements of the recommendations of the 2009 Commission of Inquiry. The Conference Committee noted persisting issues of non-compliance with the Convention, including allegations of violations of the rights of the freedom of assembly of workers' organizations. The Conference Committee also noted the Government's stated commitment to ensure compliance with its obligations under the Convention and to the process of social dialogue, including through the framework for Tripartite Negotiating Forum (TNF). The Committee called upon the Government to: (i) refrain from the arrest, detention or engagement in violence, intimidation or harassment of trade union members conducting lawful trade union activities; (ii) ensure that the allegations of violence against trade union members are investigated, and where appropriate, impose dissuasive sanctions; (iii) repeal the Public Order and Security Act (POSA), as it has committed to do so, and ensure that the replacement legislation regarding public order does not violate workers' and employers' freedom of association in law and practice; (iv) revise or repeal the Public Service Act and, as necessary, the Health Services Act, to allow public sector workers freedom of association in consultation with the social partners; (v) amend the Labour Act, in consultation with workers' and employers' organizations, to come into compliance with the Convention; and finally (vi) continue to engage in social dialogue with the workers' and employers' organizations in connection with the framework of the TNF. The Conference Committee urged the Government to accept a direct contacts mission of the ILO to assess progress before the next International Labour Conference.

The Committee notes the End of Mission Statement of the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr Clément Nyaletsossi Voule, on his visit to Zimbabwe in September 2019.

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

*Trade union rights and civil liberties.* The Committee recalls that it had noted with concern the allegations submitted by the ITUC and the ZCTU regarding: the injuries suffered by the ZCTU personnel when the union's office came under attack by soldiers during the demonstrations on 1 August 2018; cases of strike action being banned and criminalized; and denial or delay of trade unions registration. The Committee notes the most recent information provided by the ZCTU, according to which the Government set up a Commission of Inquiry to investigate the police and military action during the August 2018 demonstrations. According to the ZCTU, the Commission found out that six people were killed and 35 injured as a result of the military and police action and recommended a payment of compensation for losses and damages caused. The ZCTU expresses its concern that no compensation has been paid to its staff members affected nor for the damages to its building, and that the perpetrators have not been made accountable for their action. The ZCTU informs that the Footwear Tanners and Allied Workers Union of Zimbabwe remains unregistered. ***The Committee requests the Government to provide detailed comments on these serious allegations.***

The Committee recalls that it had previously noted that a training curriculum on freedom of association was being developed for the dissemination and use by police officers. The Committee notes with *concern* the ZCTU's latest allegation that it has not observed a change in behaviour on the part of the police officers and that the situation on the ground has turned for the worst with serious attacks on civil liberties. ***The Committee requests the Government to provide its comments on the ZCTU allegations of several new instances of violation of civil liberties in the country.*** Further in this respect, the Committee notes with *concern* the reference made by the UN Special Rapporteur in his statement, to the authorities' response to the protests of January 2019 calling for a national "stay-away" in response to massive fuel price increases and, in particular, the fact that the order to disperse protestors participating in the demonstrations led to the use of lethal and excessive use of force, mass arbitrary arrests and torture.

*Public Order and Security Act (POSA).* The Committee recalls that it had previously requested the Government to review the application of the POSA, in consultation with the social partners, with a view to making proposals to ensure with greater clarity that trade union activities were outside its scope. The Committee takes note of the ZCTU's indication that no such consultations took place. According to the ZCTU, the Maintenance of Peace and Order (MOPO) Bill, more draconian than the POSA, is currently before Parliament. The Committee notes in this respect that according to the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, while the MOPO Bill contains some improvements, it "does not propose significant substantive amendments targeted to address the main problems prevailing in the POSA". Furthermore, according to the UN Special Rapporteur, the MOPO "has worrying similarities to the POSA, revealing a common scope in which the exercise of the right to peaceful assembly is not fully guaranteed. Instead, the MOPO Bill continues to give law enforcement agencies broad regulatory discretion and powers". ***The Committee requests the Government to transmit a copy of the Bill so that it may examine its conformity with the Convention. In the meantime, it urges the Government to conduct thorough and full consultations with the social partners on the upcoming legislation dealing with assemblies and demonstrations.***

*Labour law reform and harmonization. Labour Act.* In its previous comment, the Committee noted with concern that, despite its numerous requests, some of which predate the 2009 Commission of Inquiry, there was no concrete progress in amending the Labour Act so as to bring it into conformity with the Convention. Noting that the social partners were concerned that the legislative reform was slow and haphazard, leading to the perception of a lack of political will to carry it out, the Committee expected that the labour law review would be concluded in full consultation with the social partners, without further delay. The Committee notes the ZCTU's recent submission that no legislative changes have occurred and

that the fourth version of the draft Labour Bill does not address the requests made by the Commission of Inquiry nor by this Committee. The Committee notes that at its meeting in June 2019, the Committee on Freedom of Association urged the Government to amend the Labour Act without further delay in consultation with the social partners (see Case No. 3128, Report No. 389, paragraphs 103–109). ***The Committee is bound to note with deep regret the lack of progress in the labour law reform. It urges the Government, in consultation with the social partners, to take the necessary steps towards completing the reform and bringing the Labour Act into full conformity with the Convention. The Committee requests the Government to provide information on developments in this regard.***

***Public Service Act and Health Services Act.*** The Committee had previously requested the Government to ensure, in consultation with the social partners, that under the Public Service Act, staff of the Civil Service Commission enjoyed the rights enshrined in the Convention and that legislative provisions dealing with the registration of organizations of public servants would be sufficiently clear so as not to give rise to possible interpretation of the law as giving discretionary power to the authorities to refuse the registration of an organization. The Committee had previously noted the ZCTU's indication that the Health Services Act required reforms as it mostly duplicated the Public Service Act, in particular regarding freedom of association and collective bargaining rights. The Committee notes with **concern** that no new legislation has been adopted and that the Principles for the harmonization of the Public Service Act and the Health Services Act have not been shared with the social partners. ***In the absence of the Government's report, the Committee is bound to reiterate its previous request and expects that the process of reviewing the public service legislation will be conducted in full consultation with the social partners.***

The Committee notes that the Tripartite Negotiating Forum (TNF) Act was enacted and that the TNF was launched on 5 June 2019. ***The Committee expects this to begin a new era for social dialogue in Zimbabwe, which would allow for pending legislative amendments and labour law reform and public service legislation harmonization to be concluded without further delay, in the spirit of a genuine, effective and sustained dialogue.***

***The Committee urges the Government to accept a direct contacts mission of the ILO requested by the Conference Committee to assess progress before the next International Labour Conference.***

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

#### **Follow-up to the 2009 recommendations of the Commission of Inquiry appointed under article 26 of the Constitution of the ILO**

The Committee notes the observations of the Zimbabwe Congress of Trade Unions (ZCTU), received on 30 August 2019, raising issues addressed by the Committee below.

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

#### **Labour law reform and harmonization**

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. It had therefore once again requested the Government to provide information on the progress achieved in bringing the labour and public service legislation into conformity with the national Constitution and the Convention.

***Labour Act.*** In its previous comment, the Committee had noted the Government's indication that following the adoption of the Labour Law Reform Principles by the Cabinet, in December 2016, and a number of consultative meetings held in 2017 and 2018, the final draft of the Labour Amendment Bill was finalized and ready to be tabled before Cabinet and then Parliament. The Committee had, however, noted with concern the ZCTU's allegation that the draft of the Labour Amendment Bill deliberately ignored the Committee's observations and did not include any provision setting clearly the protection of workers and their representatives against anti-union discrimination.

***Public Service Act and the Health Services Act.*** The Committee had previously noted the Government's indication that the principles to amend the Public Service Act were approved by the Tripartite Negotiating Forum and further consultations were undertaken within the National Joint Negotiation Council (NJNC). The Government had further indicated that the Attorney General's Office was in the process of drafting the bill and that the social partners would be consulted on the draft.

The Committee notes with **concern** that according to the most recent ZCTU's observations, the Labour Act, Public Service Act and the Health Services Act have not been amended so as to be harmonized with the Constitution and the Convention. ***The Committee urges the Government to make all necessary efforts to ensure that the process of reviewing the labour and public service legislation with a view to ensuring its conformity with the Convention will move forward without further delay and in full consultation with the social partners. The Committee requests the Government to provide information on all progress made in this regard.***

***Article 4 of the Convention. Promotion of collective bargaining.*** The Committee had previously noted that section 56(2) of the Special Economic Zones Act (2016) did not recognize the right to collective bargaining and gave the power to

determine conditions of work to the Special Economic Zones Authority and the Minister. It had therefore requested the Government to take the necessary measures to amend the Act, in consultation with the social partners, so as to bring it into conformity with the Convention and to provide information on any developments in this regard. *Noting with concern that according to the ZCTU, there have been no attempts to address this issue, the Committee is bound to reiterate its request and asks the Government to provide information on all progress made in this regard.*

### *Application of the Convention in practice*

*Article 1. Adequate protection against acts of anti-union discrimination.* The Committee had previously requested the Government to provide detailed information on its engagement with the ZCTU regarding cases of alleged anti-union discrimination as compiled by the ZCTU. The Committee had noted the Government's indication that it had engaged with the ZCTU in December 2016, which led to the resolution of most of the cases, although some could not be traced due to insufficient information. The Government had further indicated that with the assistance of the ILO, it was in the process of coming up with an electronic case management system, which would assist in tracking labour dispute cases, particularly those relating to anti-union discrimination. The Committee had requested the Government to provide detailed information on any developments on this subject. The Committee had also requested the Government to provide its comments on the ZCTU's allegation of a widespread anti-union discrimination in the construction sector (where several members of the Zimbabwe Construction and Allied Trade Workers' Union would have been victims of assault and harassment, mainly in multinationals and foreign-owned companies, and their representatives denied access to companies' premises). The Committee notes with *concern* the ZCTU's most recent submission that this issue remains unaddressed and its reference to new cases of anti-union discrimination. *The Committee urges the Government to take all the necessary measures, without delay, to ensure effective protection against acts of anti-union discrimination in practice and to submit, in its next report, a detailed reply on the Committee's previous request and on the ZCTU observations.*

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 87** (Algeria, Angola, Antigua and Barbuda, Armenia, Australia, Azerbaijan, Bahamas, Barbados, Belgium, Bosnia and Herzegovina, Botswana, Burundi, Cabo Verde, Cambodia, Canada, Central African Republic, Chad, Chile, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Czech Republic, Denmark, Djibouti, Dominica, Ecuador, Eritrea, Estonia, Ethiopia, France, Gambia, Grenada, Haiti, Kiribati, Kyrgyzstan, Netherlands: Aruba, Papua New Guinea, Philippines, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Sao Tome and Principe, Serbia, Sierra Leone, Tajikistan, Timor-Leste, Turkey, Uzbekistan); **Convention No. 98** (Angola, Argentina, Armenia, Australia, Austria, Barbados, Belgium, Benin, Bosnia and Herzegovina, Brazil, Burkina Faso, Cabo Verde, Canada, Central African Republic, Chad, Chile, Colombia, Comoros, Congo, Côte d'Ivoire, Croatia, Cuba, Czech Republic, Djibouti, Dominican Republic, Estonia, France, Kiribati, Kyrgyzstan, Malawi, Mozambique, Rwanda, San Marino, Singapore, Solomon Islands, South Africa, South Sudan, Tajikistan, Timor-Leste); **Convention No. 135** (Antigua and Barbuda, Australia, Austria, Bosnia and Herzegovina, Brazil, Burundi, Democratic Republic of the Congo, Dominica); **Convention No. 141** (Afghanistan); **Convention No. 151** (Albania, Belgium, Bosnia and Herzegovina, Brazil, Philippines); **Convention No. 154** (Albania, Belize, Benin, Bosnia and Herzegovina, Czech Republic, Saint Lucia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 87** (Benin, Burkina Faso, Cuba); **Convention No. 151** (Argentina).

## Forced labour

### Belize

#### **Abolition of Forced Labour Convention, 1957 (No. 105) (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 2020, 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(c) and (d) of the Convention. Penalties involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes.* For many years, the Committee has been referring to section 35(2) of the Trade Unions Act, under which a penalty of imprisonment (involving an obligation to perform labour, by virtue of section 66 of the Prison Rules) may be imposed on any person employed by the Government, municipal authority or any employer in charge of supplying electricity, water, railway, health, sanitary or medical services or communications or any other service that may, by proclamation, be declared by the Governor to be a public service, if such person wilfully and maliciously breaks a contract of service, knowing or having reasonable cause to believe that the probable consequences will be to cause injury or danger or grave inconvenience to the community. The Committee has also noted that section 2 of the Settlement of Disputes (Essential Services) Act, Statutory Instrument No. 92 of 1981, declared the national fire service, postal service, monetary and financial services (banks, treasury, monetary authority), airports (civil aviation and airport security services) and the port authority (pilots and security services) to be essential services, and Statutory Instrument No. 51 of 1988 declared the social security scheme administered by the Social Security Branch an essential service.

The Committee has recalled in this respect that the imposition of sanctions involving compulsory labour as a punishment for breaches of labour discipline or for having participated in strikes is incompatible with the Convention. It has noted that section 35(2) of the Trade Unions Act refers not only to injury or danger but, alternatively, to grave inconvenience to the community, and applies not only to essential services, but also to other services, such as most employment under the Government or a municipal authority and most banking, postal and transport services.

The Government indicates in its report that one of the main tasks of the newly revived Labour Advisory Board is the revision of the national legislation, and that the Board has regrouped the legislation under revision into six topics, including trade unions' rights. The Government also states that, although trade unions' legislation has not yet been covered, the intention is to revise it in order to bring it into conformity with the international labour Conventions, and that the Committee's concern regarding section 35(2) of the Trade Unions Act will definitely be taken into consideration. *While taking due note of this information, the Committee trusts that the process of the revision of the Trade Unions Act will be completed in the near future, so as to ensure that no sanctions involving compulsory labour could be imposed as a punishment for breaches of labour discipline or for peaceful participation in strikes.*

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.*

### Chad

#### **Forced Labour Convention, 1930 (No. 29) (ratification: 1960)**

*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.

## Congo

### ***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 2020, 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(2)(a) of the Convention.* 1. *Work exacted under compulsory military service laws.* For many years the Committee has been drawing the Government's attention to the fact that section 1 of Act No. 16 of 27 August 1981 establishing compulsory military service is not in conformity with the Convention. Under this provision, national service is instituted for the purpose of enabling every citizen to participate in the defence and construction of the nation and has two components: military service and civic service. The Committee has repeatedly emphasized that work exacted from recruits as part of compulsory national service, including work related to national development, is not purely military in nature and is therefore contrary to *Article 2(2)(a)* of the Convention.

The Committee notes that the Government once again indicates that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee again expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to amend or repeal the Act establishing compulsory military service so as to bring the legislation into conformity with the Convention. The Government is requested to supply information on any progress made in this respect.***

2. *Youth brigades and workshops.* In its previous comments the Committee noted the Government's indication that Act No. 31-80 of 16 December 1980 on guidance for youth had fallen into disuse since 1991. Under this Act, the party and mass organizations were supposed to create, over time, all the conditions for establishing youth brigades and organizing youth workshops (type of tasks performed, number of persons involved, duration and conditions of their participation, etc.). The Committee once again notes the Government's indication that it is committed to repealing the abovementioned Act and this will be seen in practice in the revision of the Labour Code, which is in progress. ***The Committee expresses the strong hope that when the Labour Code is revised, the necessary steps will be taken to formally repeal Act No. 31-80 of 16 December 1980 on guidance for youth.***

*Article 2(2)(d).* *Requisitioning of persons to perform community work in instances other than emergencies.* For many years the Committee has been drawing the Government's attention to the fact that Act No. 24-60 of 11 May 1960 is not in conformity with the Convention in that it allows the requisitioning of persons to perform community work in instances other than the emergencies provided for under *Article 2(2)(d)* of the Convention, and provides that persons requisitioned who refuse to work are liable to imprisonment ranging from one month to one year.

The Committee again notes the Government's indication that this Act has fallen into disuse and may be considered as repealed, in view of the fact that the Labour Code (section 4) and the Constitution (article 26), which prohibit forced labour, annul all the provisions of national law which are contrary to them. The Government explains that, in order to avoid any legal ambiguity, a text will be adopted enabling a clear distinction to be made between work of public interest and the forced labour prohibited by the Labour Code and the Constitution. The Government also indicates that the practice of mobilizing sections of the population for community work, on the basis of the provisions of section 35 of the statutes of the Congolese Labour Party (PCT), no longer exists. Tasks such as weeding and clean-up work are carried out by associations, state employees and local communities on a voluntary basis, therefore without any compulsion involved. Moreover, the voluntary nature of work for the community will be established in the revision of the Labour Code in such a way as to clearly bring the national legislation into conformity with the provisions of the Convention. ***The Committee notes this information and hopes that appropriate measures will be taken to clarify the situation in both law and practice, especially by the adoption of a text enabling a distinction to be made between work in the public interest and forced labour.***

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.***

## Dominica

### **Forced Labour Convention, 1930 (No. 29) (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 2020, 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) and 2(1), (2)(a) and (d) of the Convention. National service obligations.* Over a number of years, the Committee has been requesting the Government to repeal or amend the National Service Act, 1977, under which persons between the ages of 18 and 21 years are required to perform service with the national service, including participation in development and self-help projects concerning housing, school, construction, agriculture and road building, failure to do so being punishable with a fine and imprisonment (section 35(2)). The Committee observed that, contrary to the Government's repeated statement that the national service was created to respond to national disasters, the Act contained no reference to natural disasters, but specified the objectives of the national service, which "shall be to mobilize the energies of the people of Dominica to the fullest possible level of efficiency, to shape and direct those energies to promoting the growth and economic development of the State". The Committee pointed out that the above provisions are not in conformity with the present Convention and the Abolition of Forced Labour Convention, 1957 (No. 105), which specifically prohibits the use of forced or compulsory labour "as a means of mobilizing and using labour for purposes of economic development".

The Government indicates in its report that the item concerning the amendment of the legislation has been included in the Decent Work Agenda, and that the necessary measures will be taken to address the requests in relation to compliance with the Conventions with the technical assistance of the ILO. *While having noted the Government's indications in its earlier reports that the National Service Act, 1977, has been omitted from the Revised Laws of Dominica, 1990, and that section 35(2) of the Act has not been applied in practice, the Committee trusts that appropriate measures will be taken in the near future in order to formally repeal the above Act, so as to bring national legislation into conformity with Conventions Nos 29 and 105 and that the Government will provide, in its next report, information on the progress made 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.*

## Eritrea

### **Abolition of Forced Labour Convention, 1957 (No. 105) (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 2020, 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 Organisation of Employers (IOE) received on 1 September 2018 and requests the Government to provide its comments in this respect.

*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 take the necessary measures to ensure that no prison sentences (under the terms of which compulsory labour may be required) are imposed on persons who, without having recourse to violence, express political opinions or views opposed to the established political, social or economic system. In this respect, it noted that several provisions of Press Proclamation No. 90/1996 establish restrictions on printing and publishing (concerning the printing or reprinting of an Eritrean newspaper or publication without a permit; printing or disseminating a foreign newspaper or publication prohibited from entering Eritrea; publishing inaccurate news or information disturbing public order (article 15(3), (4) and (10))), which are punishable with penalties of imprisonment. Under the terms of article 110 of the Transitional Penal Code of 1991, persons convicted to imprisonment are subject to the obligation to work in prison. The Committee noted in this regard that, in her May 2014 report, the United Nations Special Rapporteur on the situation of human rights in Eritrea indicated that violations of rights, such as infringements of freedom of expression and opinion, assembly, association and religious belief, were still as numerous.

The Committee notes the Government's indication in its report that it is well known that expressing a political opinion or belief is not a crime in Eritrea. Since independence, no citizen has been detained for expressing his or her opinion or for criticizing the Government. The only restrictions on freedom of expression are related to the rights of others, morality, sovereignty and national security. The Government refers to the 1997 Constitution which not only protects fundamental freedoms, such as freedom of expression and opinion, assembly, association and religious belief, but also provides judicial and administrative remedies in case of violation. With regard to religious freedom, the Government refers to Proclamation No. 73/1995 respecting religious institutions and activities and indicates that no interference is allowed in the exercise of the rights of any religion or creed on condition that they are not used for political purposes and are not prejudicial to public order or morality. The Committee also notes the Government's view that the situation described in the report of the United Nations Special Rapporteur on the situation of human rights in Eritrea is misrepresented and that several of the allegations contained in the report, to which the Committee referred, are untrue.

The Committee notes that, in its latest resolution on the situation of human rights in Eritrea, adopted in June 2017, the United Nations Human Rights Council expresses its "deep concern at the severe restrictions on the right to freedom to hold opinions without interference, freedom of expression, including the freedom to seek, receive and impart information, liberty of movement, freedom of thought, conscience and religion, and freedom of peaceful assembly and association, and at the detention of journalists, human rights defenders, political actors, religious leaders and practitioners in Eritrea" (A/HRC/RES/35/35). The Committee also notes that, in the context of the Working Group on the Universal Periodic Review, the Government accepted the recommendations of certain countries encouraging it to "reform legislation in the area of the right to freedom of conscience and religion"; ensure that "the rights of all its people to freedom of expression, religion, and peaceful assembly are respected"; and take the "necessary

measures to ensure respect for human rights, including the rights of women, political rights, the rights of persons in detention and the right of freedom of expression as it pertains to the press and other media” (A/HRC/26/13/Add.1).

The Committee recalls that the Convention protects persons who hold or express political views or views ideologically opposed to the established political, social or economic system by prohibiting the imposition of penalties which may involve compulsory labour, including sentences of imprisonment including compulsory labour. Freedom of opinion, belief and expression are exercised through various rights, such as the right of assembly and association and freedom of the press. The exercise of these rights enables citizens to secure the dissemination and acceptance of their views, or to practice their religion. While recognizing that certain limitations made be imposed on these rights as a safeguard for public order to protect society, such limitations must be strictly within the framework of the law. *In light of these considerations, the Committee expresses the firm hope that the Government will take all the necessary measures to ensure that the legislation that is currently in force, as well as any legislation that is being prepared concerning the exercise of the rights and freedoms referred to above, does not contain any provision which could be used to punish the expression of political opinions or views ideologically opposed to the established political, social or economic system, or the practice of a religion, through the imposition of a sentence of imprisonment under which labour could be imposed (as is the case for sentences of imprisonment in Eritrea). In this regard, the Committee requests the Government to provide information on any sentences of imprisonment imposed for violations of the provisions of the Press Proclamation (No. 90/1996) or Proclamation No. 73/1995 respecting religious institutions and activities, with an indication of the acts which gave rise to conviction to such penalties.*

*Article 1(b). Compulsory national service for purposes of economic development.* The Committee refers to its observation concerning the Forced Labour Convention, 1930 (No. 29), in relation to the broad range of types of work exacted from the population as a whole in the context of compulsory national service, as set out in the Proclamation on National Service No. 82 of 1995 and the 2002 Declaration on the “Warsai Yakaalo” Development Campaign. The Committee expresses *deep concern* at the absence of progress in law and practice to circumscribe the obligation of service within the limits authorized by the two forced labour Conventions. It recalls that this national service obligation, to which all citizens between the ages of 18 and 40 years are subject for an indeterminate period of time, has the objectives of the reconstruction of the country, action to combat poverty and the reinforcement of the national economy and, consequently, is in blatant contradiction with the objective of this Convention which, in *Article 1(b)*, prohibits recourse to compulsory labour “as a method of mobilising and using labour for purposes of economic development”. *The Committee therefore strongly urges the Government to take the necessary measures without delay for the elimination in law and practice of any possibility of using compulsory labour in the context of national service as a method of mobilizing labour for the purposes of economic development.*

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.*

## Guatemala

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1959)**

*Article 1(a), (c) and (d) of the Convention.* *Penal sanctions involving compulsory labour imposed for expressing opposition to the established political, economic and social system, for breaches of labour discipline or for participating in strikes.* The Committee recalls that for many years it has been requesting the Government to amend sections 419, 390(2) and 430 of the Penal Code as under these provisions prison sentences involving compulsory labour (in accordance with section 47 of the Penal Code) can be imposed to punish the expression of certain political views, as a means of labour discipline or for participation in a strike. Under the terms of section 419 of the Penal Code, “any public servant or employee who fails or refuses to carry out, or delays carrying out, any duty pertaining to his position or office, shall be punished with imprisonment of from one to three years”; under the terms of section 390(2), “any person committing an act intended to paralyse or disrupt an enterprise that contributes to the economic development of the country shall be punished with imprisonment of from one to five years”; and, finally, section 430 provides that “public servants, public employees and other employees or members of the staff of service enterprises who collectively abandon their jobs, work or service, shall be punished with imprisonment of from six months to two years. The penalties shall be doubled where such stoppage harms the public interest, and in the case of leaders, promoters or organizers of a collective stoppage”. The Committee further recalls that sections 390(2) and 430 of the Penal Code have also been the subject of its comments in the context of its supervision of the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and that, further to the complaint made under article 26 of the Constitution for non-observance by Guatemala of Convention No. 87, a road map was adopted by the Government in 2013 in consultation with the social partners. In this framework, the Government undertook to submit to the prior consultation with the social partners the Bills designed to bring the national legislation into conformity with Convention No. 87 (point 5 of the road map).

The Committee notes the Government’s indication, in its report, that Bill 5199, that would amend sections 390(2) and 430 of the Penal Code, was presented to the National Congress on 31 January 2017. The Government adds that after more than 70 hours of work, trade union organizations and employers reached a bipartite agreement through social dialogue in June 2017 concerning the amendment of sections 390(2) and 430 of the Penal Code, specifying that those provisions “do not apply in cases of legal strike executed in accordance with current legislation, except for those who committed acts of violence against persons or against property or other serious infractions provided for” in the Penal Code. The Government states that in March 2018, the bipartite agreement was communicated to the National Congress asking for its approbation. Noting the Government’s indication that Bill 5199 entered into the second debate on 8 May 2018, the Committee observes that the draft legislation has not yet been adopted.

The Committee further notes that in November 2017 a tripartite agreement was reached, in collaboration with the ILO, which calls for the formation of a National Tripartite Commission on Labour Relations and Freedom of Association, which

would monitor and facilitate the implementation of the 2013 road map. It notes that, on 6 February 2018, the National Tripartite Committee was established by Ministerial Decision No. 45-2018 and is composed of three subcommittees, namely on the implementation of the ILO road map, mediation and dispute settlement, and legislation and labour policy which is responsible for submitting tripartite agreed opinions on labour law initiatives to the National Congress. In that respect, the Committee notes that the Government indicates, that on 11 April 2018, a specific item was included on the agenda of the National Tripartite Committee to “issue opinions with regard to the recommendations made by the Committee of Experts on the Application of Conventions and Recommendations” concerning, inter alia, Convention No. 105. The Government states that the above-mentioned Bill 5199 does not provide for the amendments of sections 47 and 419 of the Penal Code, as such amendments would be addressed through social dialogue and tripartism in the subcommittee on labour law and policy of the National Tripartite Commission. The Committee refers to its previous comments where it noted that, according to the Government, work by persons convicted to a sentence of imprisonment is part of their rehabilitation and cannot be considered of a compulsory nature, despite section 47 of the Penal Code, which provides that “work by detainees shall be compulsory and shall be paid”. ***The Committee requests the Government to provide updated information on any progress made in the adoption of Bill 5199, and more particularly concerning the amendment of sections 390(2) and 430 of the Penal Code, as well as a copy of the new legislation once adopted. It further requests the Government to provide information on any progress made in the amendment of sections 47 and 419 of the Penal Code, in particular within the framework of the National Tripartite Committee on Labour Affairs and Freedom of Association.***

Referring to its previous comments where it noted that the Government did not reply to the allegations made in 2012 and reiterated in 2015 by the Guatemalan Union, Indigenous and Peasant Movement (MSICG) concerning the criminalization of social protection and trade union action, the Committee notes the Government’s statement that it is unable to reply as it did not receive a copy of these observations. The Committee recalls that the MSICG referred to certain provisions of the Penal Code (and particularly section 256 of the Penal Code on the unlawful appropriation of property (*usurpación*)), which define the constituent elements of the offences that they criminalize in broad terms, such that conduct considered to be normal in the context of social protest, a strike or any other demonstration by society could be covered by these provisions and constitute a penal offence. While noting the adoption in April 2018 of Order No. 5-2018 on the investigation of offences against human rights defenders by the Public Prosecution Service, the Committee observes that several United Nations Treaty Bodies, together with the UN Special Rapporteur on the rights of indigenous peoples and the Office of the High Commissioner in Guatemala, recently expressed concern about: (i) the increasing frequency of the abusive use of criminal proceedings directed against human rights defenders, journalists and indigenous leaders, on criminal charges ranging from threats to public safety, incitement to crime, instigation, unlawful association to sedition or aggravated trespass, which is considered as a flagrant offence which automatically involves restrictions on the right to a defence; as well as (ii) arbitrary criminal prosecution of indigenous community radio stations. They also expressed concern about draft legislation relating to terrorist acts, public order and non-governmental organizations that would restrict freedom of expression, assembly and association by defining criminal conduct in vague terms, among other reasons (CERD/C/GTM/CO/16-17, 27 May 2019, paragraphs 25–27; A/HRC/40/3/Add.1, 28 January 2019, paragraphs 41 and 44–46; CAT/C/GTM/CO/7, 26 December 2018, paragraph 38; CCPR/C/GTM/CO/4, 7 May 2018, paragraphs 36 and 38; A/HRC/39/17/Add.3, 10 August 2018, paragraphs 44, 51, 53, 59; and CEDAW/C/GTM/CO/8-9, 22 November 2017, paragraph 28). The Committee further notes that, in the framework of the Universal Periodic Review (UPR), the UN Human Rights Council also recommended that the Government ensure that human rights defenders can carry out their legitimate activities without undue impediment, obstruction or legal harassment (A/HRC/37/9, 2 January 2018, paragraph 111). ***The Committee urges the Government to take the necessary measures to ensure that no person who participates peacefully in a strike or opposes the established political, economic or social system may be subject to a prison sentence involving compulsory prison labour, including human rights defenders, journalists and indigenous leaders. It requests the Government to provide information on any measures taken in that regard, as well as concerning the observations previously made by the MSICG.***

## Jamaica

### ***Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)***

*Article 1(c) and (d) of the Convention. Disciplinary measures applicable to seafarers.* For a number of years, the Committee has been referring to the following provisions of the Jamaica Shipping Act, 1998, under which certain disciplinary offences are punishable with imprisonment (involving an obligation to perform labour under the Prisons Law):

- section 178(1)(b), (c) and (e), which provides for penalties of imprisonment, inter alia, for wilful disobedience or neglect of duty or combining with any of the crews to impede the progress of the voyage; an exemption from this liability applies only to seafarers participating in a lawful strike after the ship has arrived and has been secured in good safety to the satisfaction of the master at a port, and only at a port in Jamaica (section 178(2)); and
- section 179(a) and (b), which punishes, with similar penalties, the offences of desertion and absence without leave.

The Committee recalled, referring to paragraphs 179–181 of its 2007 General Survey on eradication of forced labour, that provisions under which penalties of imprisonment (involving an obligation to perform labour) may be imposed for desertion, absence without leave or disobedience, are not in conformity with the Convention. In this regard, the Committee

noted the Government's indication that the shipping industry of Jamaica and the country as a whole do not use any forms of forced or compulsory labour, including as a means of labour discipline. Moreover, the disciplinary procedures of the Shipping Association of Jamaica are circumscribed by the Joint Labour Agreement between the Shipping Company and the Unions that represent workers in the Bargaining unit, such as the Bustamante Industrial Trade Union, the Trade Union Congress and the United Port Workers and Seamen's Union. The Government further stated that during the period of review, no decisions had been made by the court of law or other tribunals in relation to the above provisions of the Shipping Act. The Committee urged the Government to take the necessary measures to ensure the adoption of the amendments of the Shipping Act so as to bring the legislation into line with the Convention.

The Committee notes the Government's information in its report that the Policy Unit of the Ministry of Transport and Mining is in the process of preparing a draft Cabinet Submission for seeking Cabinet's approval to amend the provisions of the Shipping Act of 1998 that are in breach of the provisions of the Convention. Referring to paragraph 312 of its General Survey of 2012 on fundamental Conventions, the Committee once again recalls that *Article 1(c)* of the Convention expressly prohibits the use of any form of forced or compulsory labour as a means of labour discipline and that the punishment of breaches of labour discipline with sanctions of imprisonment (involving an obligation to perform labour) is incompatible with the Convention. *Noting that the above provisions of the Shipping Act have been the subject of comments since 2002, the Committee expresses the firm hope that the Government will take the necessary measures to ensure that the amendments of the Shipping Act are adopted without any further delay so as to bring the legislation into line with the Convention. It requests the Government to provide information on the progress made in this regard.*

## Kazakhstan

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2001)**

The Committee previously noted that according to the Criminal Code of 3 July 2014, persons convicted for penal offences with penalties of correctional work or community service are under the obligation to perform labour (sections 42 and 43 of the Criminal Code). The Committee notes that the penalties of restriction of freedom and deprivation of liberty (provided for under sections 44 and 46 of the Criminal Code, respectively) also involve compulsory labour, under the conditions set out in the Executive Penal Code of 5 July 2014 (sections 63(2) and 104(2)(1)).

*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. Criminal Code.* In its previous comments, the Committee noted a number of provisions of the Criminal Code, under the terms of which certain activities might be punished by sentences involving an obligation to perform labour in circumstances which are covered by the Convention. The provisions in question are as follows:

- section 174, which provides for penalties of restriction of freedom or deprivation of liberty for the incitement of social, national, gender-based, racial, class or religious discord;
- section 400, which establishes penalties such as a fine, correctional work, community work or remand in custody in case of violation of the procedure for organizing and holding meetings, rallies, pickets, street marches and demonstrations;
- section 404, which establishes penalties such as a fine, correctional work, restriction of freedom, deprivation of liberty, with forfeiture of the right to hold certain posts or to engage in certain activities in case of forming, leading and participation in activities of illegal social and other associations.

The Committee noted the Government's indication that, in 2015, there were 47 offences under section 174 of the Criminal Code, out of which three cases were submitted to court, and 44 cases were discontinued. The Committee requested the Government to ensure in practice that the provisions of sections 174, 400 and 404 of the Criminal Code were applied in a manner so as to ensure that no penalties involving compulsory labour were imposed as a punishment for holding or expressing political or ideological views.

The Government indicates in its report that, according to the Supreme Court of Kazakhstan, in the first half of 2019, 19 people were convicted under section 174 of the Criminal Code, including six who were sentenced to imprisonment and ten to restriction of freedom. The Government states that no cases were prosecuted under sections 400 and 404. The Committee notes the information in the compilation report prepared by the UN Office of the High Commissioner for Human Rights (OHCHR), for the Universal Periodic Review of November 2019, that the Special Rapporteur on terrorism observed that section 174 of the Criminal Code was the most commonly used against civil society activists, particularly against religious organizations (A/HRC/WG.6/34/KAZ/2, paragraph 25). The Committee also notes that, according to the 2017 Report "Defamation and Insult Laws in the OSCE Region: A Comparative Study" of the Organization for Security and Co-operation in Europe (OSCE), section 174 of the Criminal Code has been increasingly widely used against critical activists, including atheist writers (page 29). Moreover, section 174 of the Criminal Code has been applied in cases concerning criticism of policies pursued by the president of a foreign state (page 132).

Referring to its General Survey on the fundamental Conventions, 2012, paragraphs 302 and 303, the Committee points out that the range of activities which must be protected from punishment involving compulsory labour, under *Article 1(a)*, 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 and which may also be affected by measures of political coercion. It also emphasizes that the Convention does not prohibit the application of penalties involving compulsory labour to persons who use violence, incite violence or prepare acts of violence. *The Committee therefore requests the Government to take the necessary measures to ensure that no penalties involving compulsory labour, including compulsory prison labour, correctional work or community service, are imposed in law and in practice, on persons who peacefully express views ideologically opposed to the established political, social or economic system, for example by clearly restricting the scope of sections 174, 400 and 404 of the Criminal Code to situations connected with the use of violence, or by suppressing sanctions involving compulsory labour. The Committee requests the Government to provide information on any progress made in this regard, as well as information on the application in practice of the sections referred to above, specifying the number of prosecutions made under each provision, the grounds for prosecution, and the type of penalties imposed.*

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

## Kenya

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1964)**

*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.

## Kiribati

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2000)**

*Article 1(d) of the Convention. Penalties of imprisonment involving the obligation to work as punishment for participation in strikes.* The Committee previously noted the Government's indication that the Industrial Relations Act, which imposed sanctions of imprisonment (involving compulsory labour) for participation in strikes in essential services

(section 37), would be repealed and replaced by the Employment and Industrial Relations Code of 2015 (EIRC). The Committee encouraged the Government to pursue its efforts to adopt the new EIRC with a view to addressing the issue of penal sanctions for participation in strikes.

The Committee notes with *satisfaction* that the Employment and Industrial Relations Code, which entered into force on 1 November 2016, addresses the issue of penal sanctions for participation in strikes. It notes that its section 138, contained in Part XVI on Industrial Action, provides for offences for the violation of an order of the Registrar regarding strikes in essential services. This section does not specify any penalty, however, section 152 provides for a fine for any person who commits an offence under this Code for which no specific penalty is prescribed. ***The Committee requests the Government to provide information on the application in practice of sections 138 and 152 of the Employment and Industrial Relations Code.***

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

## Lebanon

### ***Forced Labour Convention, 1930 (No. 29) (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 1(1) and 2(1) of the Convention. Vulnerable situation of migrant domestic workers to conditions of forced labour.* In its earlier comments, the Committee noted the observation of 2013 from the International Trade Union Confederation (ITUC), indicating that there are an estimated 200,000 migrant domestic workers employed in Lebanon. These workers are excluded from the protection of the Labour Law, have a legal status tied to a particular employer under the *kafala* (sponsorship) system, and legal redress is inaccessible to them. Moreover, they are subjected to various situations of exploitation, including delayed payment of wages, verbal, and sexual abuse. The Committee also requested the Government to take the necessary measures to ensure that the Bill regulating the working conditions of domestic workers, as well as the Standard Unified Contract (SUC) regulating their work are adopted in the very near future.

The Committee notes the Government's indication in its report that, the Bill regulating the working conditions of domestic workers was drafted in conformity with Domestic Workers Convention, 2011 (No. 189), and the Bill has been submitted to the Council of Ministers for discussion. The Bill will provide a certain number of safeguards, including social security coverage; decent accommodation; the timely payment of wages through bank transfer; hours of work (eight hours per day); sick leave; and a day of rest. The Government also indicates that a Steering Committee has been established under the Ministry of Labour in order to deal with issues related to migrant domestic workers and is composed of relevant Ministerial Departments, representatives of the private recruitment agencies, NGOs, certain international organizations, as well as representatives of certain embassies. A representative from the ILO Decent Work Technical Support Team in Beirut is also participating in the Steering Committee.

Moreover, the Government indicates that the Ministry of Interior and the Ministry of Labour have taken a series of preventive measures, including awareness raising campaigns through the media; the establishment of a shelter "Beit al Aman" for migrant domestic workers who are facing difficulties in collaboration with Caritas; the appointment of social assistants who look into the working conditions of migrant domestic workers in their workplaces; the training of labour inspectors on decent working conditions; and the conclusion of a series of Memoranda of Understanding (MOUs) with sending countries, such as the Philippines, Ethiopia and Sri Lanka. The Government further states that the Ministry of Labour has set up a specialized office for complaints and a hotline to provide legal assistance to migrant domestic workers. Moreover, under the Recruitment Agencies of Migrant Domestic Workers Decree No. 1/168 of 2015, it is prohibited to impose recruitment fees on all workers.

The Committee further notes that in its 2015 concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the various measures adopted by the State party to protect the rights of women migrant domestic workers, including issuing unified contracts, requiring employers to sign up to an insurance policy, regulating employment agencies, adopting a law criminalizing trafficking in persons and integrating such workers into the social charter and the national strategy for social development. The CEDAW, however, expressed concern that the measures have proved insufficient to ensure respect for the human rights of those workers. The CEDAW is equally concerned about the rejection by the Ministry of Labour of the application by the National Federation of Labour Unions to establish a domestic workers' union, the absence of an enforcement mechanism for the work contracts of women migrant domestic workers, limited access for those workers to health care and social protection and the non-ratification of the Domestic Workers Convention, 2011 (No. 189). The CEDAW was further concerned about the high incidence of abuse against women migrant domestic workers and the persistence of practices, such as the confiscation of passports by employers and the maintenance of the *kafala* system, which place workers at risk of exploitation and make it difficult for them to leave abusive employers. The CEDAW was deeply concerned about the disturbing documented reports of migrant domestic workers dying from unnatural causes, including suicides and falls from tall buildings, and about the failure of the State party to conduct investigations into those deaths (CEDAW/C/LBN/CO/4-5, paragraph 37).

While taking note of the measures taken by the Government, the Committee notes with *concern* that migrant domestic workers are subjected to abusive employer practices, such as retention of passports, non-payment of wages, deprivation of liberty and physical abuse. Such practices might cause their employment to be transformed into situations that amount to forced labour. ***The Committee therefore urges the Government to strengthen its efforts to provide migrant domestic workers with an adequate legal protection, by ensuring that the Bill regulating the working conditions of domestic workers will be adopted in the very near future and to provide a copy of the legislation, once adopted. The Committee also urges the Government to take the necessary measures to ensure that migrant domestic workers are fully protected from abusive practices and working conditions that amount to forced labour.***

*Article 25. Penal sanctions for the exaction of forced labour.* In its earlier comments, the Committee noted that according to the ITUC's information, it was found that a lack of accessible complaint mechanisms, lengthy judicial procedures, and restrictive visa policies dissuade many workers from filing or pursuing complaints against their employers. Even when workers file complaints, the police and judicial authorities regularly fail to treat certain abuses against domestic workers as crimes. The Committee also noted the Government's indication that section 569 of the Penal Code, which establishes penal sanctions against

any individual who deprives another of their personal freedom, applies to the exaction of forced labour. It requested the Government to provide information on any legal proceedings which had been instituted on the basis of section 569 as applied to forced labour and on the penalties imposed.

The Committee further notes that in its 2015 concluding observations, the CEDAW observed that migrant domestic workers face obstacles with regard to their access to justice, including fear of expulsion and insecurity of residence.

The Committee notes the Government's indication that the work of migrant domestic workers is regulated by the SUC and that the application of section 569 of the Penal Code is of the competency of the judiciary when a violation is detected. The Committee also notes copies of court decisions provided by the Government. It observes that the cases are related to non-payment of wages, harassment and working conditions of migrant domestic workers. In all cases employers have been sentenced to pay a monetary penalty to compensate the workers.

While noting this information, the Committee recalls that *Article 25* of the Convention provides that the exaction of forced labour shall be punishable as a penal offence. ***The Committee therefore urges the Government to take the necessary 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. It requests the Government to provide information on measures taken in this regard.***

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

***The Committee expects 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)***

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(b) of the Convention. Imposition of forced labour as a method of mobilizing and using labour for the purposes of economic development.* In its previous comments, the Committee emphasized that national service, as established in Ordinance No. 78-002 of 16 February 1978 setting forth the general principles of national service, is incompatible with *Article 1(b)* of the Convention. Under the terms of section 2 of the Ordinance, all Malagasies are bound by the duty of national service defined as compulsory participation in national defence and in the economic and social development of the country. This compulsory service, which requires citizens to be engaged in defence or development work, involves citizens of both sexes for a maximum period of two years and may be carried out up to the age of 35. The Committee requested the Government to take the necessary measures to bring its legislation into conformity with the Convention.

The Committee notes the Government's indication that, after the processes of registration and review, young national service conscripts have to carry out their service by choosing between two options: (i) being excused for family reasons, in which case conscription is cancelled or deferred for one year, depending on the circumstances; or (ii) continuing vocational training through Action for Development Military Service (SMAD). The objective of the SMAD is therefore to facilitate the integration into active life of young Malagasies who volunteer for national service. The SMAD is established on a voluntary basis for young persons, and the duration of the training is set at 24 months, following which the volunteers are released from their statutory service obligations. These young persons choose between training for rural or urban trades.

The Committee once again recalls that programmes involving the compulsory participation of young persons in the context of military service or, instead of such service, in work for the development of their country, are incompatible with *Article 1(b)* of the Convention, which prohibits the use of compulsory national service as a method of mobilizing labour for the purposes of economic development. It observes that the Ordinance of 1978 provides that all Malagasies are covered by the duty of national service, defined as compulsory participation in national defence and in the economic and social development of the country. ***The Committee firmly requests the Government to take the necessary measures to bring Ordinance No. 78-002 of 16 February 1978 into conformity with the Convention by guaranteeing that compulsory national service is not used as a method of mobilizing labour for the purposes of economic development. In the meantime, the Committee requests the Government to specify the relationship between the service obligations envisaged in the framework of compulsory national service, as set out in the Ordinance of 1978, and participation in SMAD. The Committee further requests the Government to indicate the practical modalities for the implementation of the SMAD and whether young persons who have chosen the SMAD can cancel the training on their own initiative. Finally, the Committee requests the Government to indicate the number of cancellations registered and their consequences.***

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

## Mauritania

### ***Forced Labour Convention, 1930 (No. 29) (ratification: 1961)***

The Committee notes the observations of the International Trade Union Confederation (ITUC), the General Confederation of Workers of Mauritania (CGTM) and the Free Confederation of Mauritanian Workers (CLTM), received on 1 September, 30 August and 12 June 2019, respectively. It also notes the observations of the ITUC and the CGTM received in 2018. Lastly, the Committee notes the Government's reply to the 2019 observations of the CLTM and the CGTM, received on 21 October 2019.

### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 106th Session, June 2017)***

*Articles 1(1), 2(1) and 25 of the Convention. Slavery and the vestiges of slavery.* The Committee previously noted that in June 2017 the Conference Committee expressed its deep concern at the persistence of slavery and the low number of prosecutions brought and it urged the Government to continue its efforts to combat slavery and its vestiges. The Committee

welcomed the fact that the Government had accepted a high-level mission and the continuation of the ILO technical cooperation project to strengthen the efforts made by the Government to bring an end to the vestiges of slavery. The Committee requested the Government to take the necessary measures, both in the framework of the technical cooperation project and the inter-ministerial committee responsible for implementing the road map to combat the vestiges of slavery, to implement the recommendations of the Conference Committee and those made by the Committee of Experts.

The Committee notes the report of the high-level mission which visited Mauritania in April 2018. The mission noted certain progress due to the efforts of the Government. While the Government showed the will to continue taking action to combat this divisive phenomenon, the global context in which action was being taken remained complex. The mission heard ambivalent statements and observed that the action taken was subject to different perceptions by the various stakeholders. The mission considered that the continuation of a multisectoral approach was essential to combat all the aspects of slavery and its vestiges, including discrimination. The mission recommended the Government to establish a coordination mechanism and to adopt a plan of action to combat forced labour and slavery articulated around four components: (a) support for the effective application of the Act of 2015 (Act No. 2015-031 of 10 September 2015 criminalizing slavery and punishing slavery-like practices) through the strengthening of the role and presence of the State; (b) the identification, provision of assistance and protection of victims; (c) the promotion of an inclusive approach and a better collective understanding of the action taken; and (d) awareness-raising. The Committee therefore proposes to examine these four components, which were addressed in its previous comments.

(a) *Effective application of the 2015 Act.* The Committee previously emphasized that the efforts made to disseminate knowledge of the 2015 Act and reinforce the training of the various actors in the criminal justice system had not in practice led to the examination of cases by the three special criminal courts with competence for slavery issues. It requested the Government to continue to take action in this respect so as to ensure that no cases of slavery go unpunished. The Committee notes that the mission welcomed the fact that several cases are before the special criminal courts and emphasized the importance of ensuring that these courts benefit from the necessary resources and stability to discharge their functions. It also observed that access to victims and their identification is still complex.

In its report, the Government refers to a number of measures, including: the circular issued by the Public Prosecutor urging all prosecutors to investigate cases of slavery more actively; free legal assistance and exemption from legal fees for victims of slavery at all stages of the procedure; the creation of legal aid offices; and the possibility available to the judges to order interim measures to protect the rights of victims. The Government adds that 35 cases have been referred to the three special criminal courts and have resulted in conciliation, the dismissal of cases, acquittals, convictions and civil damages. The East court has handed down two judgments and is due to examine around ten cases involving matters prior to the entry into force of the 2015 Act. The court in Nouakchott has dealt with ten cases since 2010 and appeals have been lodged in six others which were examined by courts of first instance. The court of Nouadhibou has dealt with seven cases (only one case is under investigation, two have been closed and three are awaiting referral by the regional criminal court). The Government also indicates that the Department of Justice is continuing to organize seminars for judicial stakeholders involved in action to combat slavery. In 2018 and 2019, training workshops were organized in Nouadhibou, Kiffa, Nouakchott and Aleg for members of the special criminal courts and magistrates of appeal bodies, investigating magistrates, prosecutors and members of the police and gendarmerie.

The Committee notes that, in the context of the technical cooperation project of the ILO, an evaluation is being prepared of the operation of the three special criminal courts, with the support of the Ministry of Justice. The objective is to be able to make recommendations for specific improvements that can be made with a view to the more effective enforcement of the 2015 Act.

The Committee notes that, in its observations, the ITUC reports several obstacles to the effective enforcement of the law: the lack of action by police officers and prosecutors when cases of slavery are reported; acts of intimidation by the police and the judicial authorities in relation to victims to persuade them to accept an amicable settlement with their former “master”; and the absence of protection measures for victims and witnesses.

The Committee notes all of these elements. It recalls that, under the terms of *Article 25* of the Convention, member States are required to ensure that the penalties imposed by law for the exaction of forced labour are really adequate and are strictly enforced. In this regard, it welcomes the fact that the three special criminal courts have before them an increasing number of cases of slavery. However, it observes that the information concerning these cases is still imprecise and that four years after the adoption of the 2015 Act only a few cases have resulted in the imposition of really adequate penalties. ***The Committee urges the Government to continue to take the necessary measures to strengthen knowledge of the Act of 2015 by both the public authorities and the victims and to ensure its effective application. Therefore, as indicated by the mission in its report, the Committee encourages the Government to pursue the training activities for the various actors in the enforcement system. It also emphasizes the importance of the preparation of a practical guide listing the most common elements/indicators that suggest that a person is in a situation of slavery as a means of reinforcing capacities for the identification of cases of slavery, the collection of evidence and the assessment of the facts. The Committee also hopes that the Government will take the necessary measures to ensure that the evaluation is undertaken of the operation of the three special criminal courts and requests the Government to indicate the recommendation made in this context. Please continue providing information on the number of cases of slavery reported to the authorities, the number of cases that have led to judicial action, the number and nature of the convictions handed down, the nature of the sanctions imposed,***

*and the number of victims of slavery who have been compensated for the damages suffered, in accordance with section 25 of the 2015 Act.*

(b) *Identification, protection and reintegration of victims.* The Committee previously noted that the identification and provision of effective assistance to victims of slavery still remained a challenge to be overcome in practice. The mission considered that it was essential to establish structures to receive victims and provide them with comprehensive assistance so that they can be provided with support in asserting their rights and reconstructing their lives free of any pressure.

The Committee notes that the Government has not provided any information on the assistance provided to victims, despite the existence of a number of cases that are before the courts. It notes that, among general social integration measures, the Government refers to: the activities undertaken by the Tadamoun Agency (the National Agency to Combat the Vestiges of Slavery); the measures taken to facilitate access to civil status of persons without filiation through 17,857 declaratory judgements respecting civil status, particularly to issue birth certificates; action to encourage families to register with schools the children of poor families and/or victims of the vestiges of slavery, within the framework of cash transfer measures; training courses, skills and employment programmes and income generation projects established for populations who are victims of the vestiges of slavery; and the reform of property ownership undertaken through the pluridisciplinary commission to reform the law on property and public land.

The Committee notes that, in its observations, the CGTM indicates that the actions undertaken by the Tadamoun Agency have only focused on the development of social and school infrastructure, without addressing the issues of prevention and the protection of victims. The CGTM observes that victims are not associated in the design or implementation of the programmes that concern them. The CLTM also refers to the absence of reception structures. The ITUC emphasizes that people who are freed from slavery do not have access to specific rehabilitation and integration measures. Faced with poverty, they are at risk of falling back into a situation of exploitation due to the lack of alternatives, or of returning to their former “masters” by reason of the psychological hold exerted in the context of slavery.

*While noting the general social integration measures taken by the Government, the Committee hopes that the Government will take specific measures to ensure that the victims who are identified benefit from specific support adapted to their situation to enable them to assert their rights and rebuild their lives psychologically, economically and socially. As noted by the mission, the Committee draws the Government’s attention to the need to pay special attention to the situation of women and their children and to the possibility of envisaging the creation of a public fund for the compensation of victims. The Committee once again requests the Government to indicate the number of cases in which the Tadamoun Agency has been a party to civil proceedings, and the number of victims who have been supported by the Agency during the investigations and judicial proceedings, with an indication of the nature of the assistance provided.*

(c) *An inclusive approach, coordination and a better collective understanding of the phenomenon.* 1. *Plan of action.* The Committee previously welcomed the multisectoral approach and the interministerial coordination introduced for the implementation of the road map to combat the vestiges of slavery. It requested the Government to indicate the new actions identified following the final evaluation of the impact of the measures adopted within the framework of the road map. The Government indicates that the final evaluation seminar on the implementation of the road map found that the 29 recommendations set out in the road map have been globally implemented in a satisfactory manner. The Committee notes that, in its observations, the CGTM observes that workers’ organizations were not associated with the formulation, implementation or evaluation of the road map. It adds that the absence of dialogue concerning the action to be taken for the elimination of all forms of forced labour is liable to compromise the Government’s programmes and the efforts made to combat slavery and its vestiges. The ITUC recalls in this regard the importance of the inclusion of workers’ organizations at every stage of the preparation and implementation of a plan of action.

The Committee notes the adoption of Order No. 085 of 5 February 2019 appointing the President and the members of the National Social Dialogue Council. The Committee notes that the priority issues to be covered by the National Social Dialogue Council include the development and finalization as soon as possible of a plan of action to combat forced labour and child labour with a view to the continuation of the action to be taken on the basis of the conclusions set out in the report of the ILO mission and the recommendations of the Committee on the Application of Standards. *The Committee trusts that the Government will take the necessary measures to adopt without delay the plan of action to combat forced labour prepared by the National Social Dialogue Council and to ensure that it will cover all of the components examined by the Committee and the mission in its report, with a view to taking effective action to combat the multiple aspects of slavery. Recalling that action to combat slavery requires the commitment of all actors within the framework of coordinated action carried out at the highest level, the Committee also requests the Government to indicate the measures adopted to establish a coordination and follow-up mechanism for the implementation of the plan of action, and to ensure the involvement of all stakeholders, including workers’ and employers’ organizations.*

2. *Qualitative study.* With regard to the qualitative study that is due to be undertaken within the framework of the technical cooperation project of the ILO, the Committee emphasized the importance of taking into account the issue of economic, social and psychological dependence when assessing whether a person has expressed free and informed consent to work, free of any threat of pressure. In its report, the mission emphasized that the qualitative study to be carried out would provide all of the actors involved with reliable data to guide their action and that it was essential for the Government to facilitate the process of the preparation of the study as soon as possible.

The Committee notes that, during the course of 2019, within the framework of the technical cooperation project, 12 regional workshops were organized throughout the national territory with a view to the preparation of a research protocol for the qualitative study. The objective was to identify the scope of application of the study, the categories of workers and the employment sectors at risk. The social partners were associated with the workshops. The research protocol could be validated at the beginning of 2020. The Committee notes that the ITUC, in its observations, welcomes the progress in the preparation of the qualitative study and reiterates the importance of also carrying out a study to determine the quantitative incidence of slavery.

The Committee also notes that, in its observations, the CLTM indicates that slavery continues to exist in its most archaic form involving people who remain at the disposal of their masters 24 hours a day. The CGTM refers to the subordinate relationship of former slaves who live in very difficult economic and social conditions due to the discrimination and social exclusion that has marked them and makes them vulnerable to exploitation.

***Recalling the importance of the availability of reliable data on the phenomenon of slavery and the various forms of forced labour, the Committee firmly hopes that the Government will continue to take all the necessary measures so that the qualitative study can be completed as soon as possible, with ILO assistance.***

(d) *Awareness-raising.* The Committee previously noted the awareness-raising actions taken by the Government and requested it to continue to take action, not only to raise awareness of the 2015 Act, but also to delegitimize slavery and combat the stigmatization and discrimination to which victims and their descendants are subjected. The Committee notes in this respect that the mission recommended the establishment of a multiyear intervention plan to coordinate awareness-raising activities over time and throughout the national territory, paying special attention to women, children, mayors and local actors. The Government refers once again to the awareness-raising caravans that are travelling throughout the national territory, and particularly in certain *adwabas* (villages), placing emphasis on the action taken to combat slavery practices. The Government adds that, with a view to reinforcing the legal framework to combat contemporary forms of slavery and any tendency to discriminate against citizens, an important legislation has been adopted to repress any discriminatory practices that may emerge in the country.

The Committee notes that the ITUC, in its observations, continues to refer to the obstacles encountered by certain civil society organizations working in the field of action to combat slavery and its vestiges, and refers to acts of intimidation and the difficulties encountered by certain organizations concerning their registration.

***The Committee requests the Government to continue undertaking awareness-raising activities on the issue of slavery throughout the national territory. The Committee also requests the Government to associate all the stakeholders, including the local authorities, so that the firm will of the State on the issue of action to combat slavery, its vestiges and discrimination is communicated and understood at all levels. The Committee also requests the Government to ensure that persons and organizations that combat slavery can act freely and without fear of reprisals.***

***Noting that the Government has not provided its first report on the application of the Protocol of 2014 to the Forced Labour Convention, 1930, the Committee requests the Government to provide it with its next report on the application of the Convention.***

### ***Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)***

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019.

*Article 1(a) of the Convention. Imposition of sentences of imprisonment involving compulsory labour as 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, under Decree No. 70-153 of 23 May 1970 establishing the prison regulations, persons sentenced to imprisonment were under an obligation to work, and that the exception established for persons convicted of political offences did not apply to the offences referred to by the Government. The Committee requested the Government to provide information on the application in practice of certain provisions of the Criminal Code, the Ordinance of 1991 concerning political parties, the Act of 1973 concerning public meetings and the Ordinance of 2006 concerning freedom of the press, under which certain activities may fall under freedom of expression of political or ideological views which may be punishable by prison sentences, including the obligation to work. The provisions in question are:

- Sections 101, 102 and 104 of the Criminal Code, which provide for prison sentences for armed or unarmed gatherings, the refusal by an unarmed person to leave an armed or unarmed gathering after one warning, and direct provocation to an unarmed gathering, either by speeches made in public or by the posting or distribution of written or printed matter.
- Section 27 of Ordinance No. 91-024 of 25 July 1991 concerning political parties, which provides for imprisonment ranging from six months to three years for any person who founds, manages or administers a political party in breach of the provisions of the Ordinance.
- Section 8 of Act No. 64-098 of 9 June 1964 concerning associations, which provides for imprisonment of one to three years for any person who takes up or continues to hold responsibility for the administration of an association without authorization.

- Section 9 of Act No. 73-008 of 23 January 1973 concerning public meetings, which provides for imprisonment ranging from two to six months for any breach of the Act.
- Ordinance No. 2006-17 of 12 July 2006 concerning freedom of the press, which provides for imprisonment for offences involving the distribution, sale, exhibition and possession of pamphlets and flyers liable to be harmful to the general interest and public order (section 30); the publication of false information (section 36); defamation of private individuals (section 40); and insults (section 41).

The Government indicates in its report that Mauritania is a country that does not prohibit the organization of public meetings or even the constitution of an association or political formation, as long as the prescribed procedures are followed. The Government adds that there are currently more than 4,000 associations. It specifies, with regard to public meetings, that the requirement to report any demonstration in advance is justified for security reasons and to prevent situations from spiralling out of control. It also states that the press is free, provided that journalists respect the ethical standards of their profession, and specifies that any victim of defamation may initiate legal proceedings.

The Committee welcomes the adoption of Act No. 2011-054 of 24 November 2011 amending certain provisions of Ordinance No. 2006-17 of 12 July 2006 on freedom of the press, which withdraws the penalty of imprisonment for the publication of false news (article 36), and for defamation against individuals (article 40) and insults (article 41), except when defamation or insults are committed on grounds of belonging or non-belonging to an ethnic group, nation, race, region or religion.

Regarding Act No. 64-098 of 9 June 1964 concerning associations, the Government indicates, in its report of July 2019 to the United Nations Committee on the Elimination of Racial Discrimination, that the Government has developed a bill, in consultation with civil society, to repeal and replace Act No 64.098, which is in the process of being adopted (CERD/C/MRT/CO/8-14/Add.1, paragraph 27). The Committee also notes that, in their concluding observations, the United Nations Human Rights Committee and Committee on the Elimination of Racial Discrimination expressed concern that non-governmental organizations and associations for the defence of human rights are required to obtain prior authorization and that some face administrative obstacles in doing so (CCPR/C/MRT/CO/2, paragraph 46 and CERD/C/MRT/CO/8-14, paragraph 29). They also expressed concern about reports of the detention of certain members of associations and organizations for the defence of human rights (paragraph 42 and paragraph 29, respectively).

The Committee notes ITUC's observations under the Forced Labour Convention, 1930 (No. 29), that restrictions on freedom of expression and association persist, including the arrest and imprisonment of human rights defence groups, in particular anti-slavery activists.

The Committee recalls that *Article 1(a)* prohibits the punishment of persons who, without resorting to violence, hold or express certain political views or views ideologically opposed to the established political, social or economic system through the imposition of labour, including compulsory prison labour. It underscores that the range of activities which must be protected, under this provision, from punishment involving forced or compulsory labour thus 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, and freedom from arbitrary arrest (see the 2012 General Survey on the fundamental Conventions, paragraph 302). ***The Committee therefore requests the Government to ensure that no penalty involving compulsory labour is imposed, in law or in practice, against persons who peacefully express views ideologically opposed to the established political, social or economic system. In this regard, the Committee requests the Government to amend the above sections of the Criminal Code, the Ordinance of 1991 concerning political parties, the Act of 1964 concerning associations and the Act of 1973 concerning public meetings by clearly restricting the scope of these provisions to the situations connected with the use of violence or incitement to violence, or by suppressing sanctions involving the obligation to work. In the meantime, the Committee requests the Government to provide information on the application in practice of these sections. It also requests the Government to indicate whether the convictions involving prison sentences have already been handed down under the above provisions of the Ordinance of 2006 concerning freedom of the press.***

## Mexico

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1934)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Institutional framework to combat trafficking in persons.* The Committee previously encouraged the Government to pursue its efforts to combat trafficking in persons, including through the implementation of the legal and institutional framework provided for in the 2012 General Act for the prevention, punishment and eradication of offences related to trafficking in persons and protection and assistance for the victims of such offences, and its corresponding second National Programme for 2014–2018. It noted that, according to the assessment carried out in the framework of the National Programme, emphasis was placed on the issue of strengthening coordination and collaboration between the various institutions of the judicial, legislative and executive authorities, and requested the Government to indicate the measures taken in this respect by the Secretariat of the Interior, as well as those taken to continue strengthening the capacities of the Inter-Ministerial Committee set up to prevent, penalize and eradicate trafficking in persons.

The Committee notes that the Government, in its report, refers to the 2015 and 2016 annual reports of the Inter-Ministerial Committee, as well as to the report on the activities of the National Programme. The Committee notes from these reports that an important number of awareness-raising and capacity-building activities have been undertaken at the federal and states levels, as well as dissemination of information materials to the general public. It notes in particular that, from 2013 to 2018, a total of 153,548 persons have been trained and sensitized to the issue of trafficking in persons by the National Institute for Migration which carried out 4,648 activities in commercial establishments, with the purpose of preventing trafficking in persons and, where appropriate, detecting foreigners in a situation of irregular migration. The Committee notes that, in its observations, communicated with the Government's report, the Confederation of Employers of the Mexican Republic (COPARMEX), considers of great importance all the measures that the federal Government has taken, in coordination with the states, to attack in a frontal way trafficking in persons. Observing that the second National Programme for the Prevention, Punishment and Eradication of Offences related to Trafficking in Persons and Protection and Assistance for Victims ended in 2018, the Committee notes the adoption of the 2019 annual programme of work of the Inter-Ministerial Committee (PATCI), aiming in particular at the setting up of a group responsible for the elaboration of the Inspection Protocol to prevent and detect trafficking in persons in workplaces published in 2017 by the Ministry of Labour and Social Welfare. The Committee notes however that the National Human Rights Commission, in its 2019 report on the diagnosis on the situation of trafficking in persons in Mexico, considered that there is a lack of a comprehensive approach, planning and evaluation of the actions carried out in the framework of the Inter-Ministerial Committee. It further notes that in its 2018 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about: (i) the lack of harmonized and coordinated mechanisms at the state and municipal levels to ensure the effective implementation of the 2012 Act; (ii) the lack of a comprehensive anti-trafficking strategy; as well as (iii) insufficient coordination with neighbouring countries in relation to the prevention of trafficking (CEDAW/C/MEX/CO/9, 25 July 2018, paragraph 29). The Committee notes that in the framework of the Universal Periodic Review, the UN Human Rights Council also recommended that the Government take further steps to improve the coordination on the implementation of a national policy to prevent, eradicate and punish human trafficking, and strengthen the anti-trafficking committees' and specialized units' human and financial resources to respond more effectively to cases of trafficking in persons (A/HRC/40/8, 27 December 2018, paragraph 132). ***The Committee requests the Government to pursue its efforts to combat trafficking in persons. It requests the Government to continue to provide information on the measures taken on the prevention, detection, assistance, protection and repatriation of trafficking victims, and the prosecution and punishment of perpetrators, including in the framework of any new National Programme on trafficking in persons, as well as on any assessment made on the impact of such measures. Taking due note of the measures taken, the Committee also requests the Government to continue to strengthen the capacities of the various institutions of the judicial, legislative and executive authorities at the federal and state levels, including the Inter-Ministerial Committee. It further requests the Government to strengthen coordination and collaboration between these institutions and cooperation with neighbouring countries to prevent trafficking in persons.***

2. *Involvement of public servants in trafficking in persons.* The Committee refers to its previous comments concerning allegations of complicity and direct participation by law enforcement officers in trafficking in persons, where it noted that the National Programme specifies that the Government should make transparency one of the main elements of the new relationship between the Government and society to ensure greater accountability and combat corruption. It notes the Government's indication that according to the activities of the Unit specialized in offences of violence against women and trafficking in persons (FEVIMTRA) within the Public Prosecutor's Office, from July 2015 to May 2018, one investigation was carried out for the crime of trafficking in persons in the form of forced labour or services in which a public servant was identified as likely responsible. The Committee further notes, from the 2019 report of the National Human Rights Commission on the Diagnosis on the situation of trafficking in persons in Mexico, that from June 2012 to July 2017, out of the total number of investigations initiated, the participation of civil servants in cases of trafficking in persons was reported in eight preliminary inquiries and investigation files. The Committee further notes that several United Nations Treaty Bodies recently expressed concern about the reported complicity between state agents and international organized crime gangs and trafficking networks, and the resulting corruption and impunity (A/HRC/WG.6/31/MEX/2, 3 September 2018, paragraph 38; CEDAW/C/MEX/CO/9, 25 July 2018, paragraph 29; and CMW/C/MEX/CO/3, 27 September 2017, paragraph 21). ***The Committee trusts that the Government will take all the necessary measures to ensure that appropriate administrative and criminal investigations are conducted and, where appropriate, that public servants who are found guilty are punished with adequate sanctions. It requests the Government to continue to provide information on the number of cases where complicity and direct participation by law enforcement officers in trafficking in persons were identified, as well as on the sanctions imposed.***

3. *Protection of victims.* The Committee previously noted that the 2012 Act establishes in a detailed manner the rights and comprehensive protection that is to be afforded to victims (sections 59–83) and that, at the federal level, under the auspices of the Inter-Ministerial Committee, a Protocol has also been drawn up on the use of procedures and resources to rescue, assist and protect victims of trafficking, establishing specific guidelines for all the authorities involved from the identification of victims to their social reintegration. The Committee notes the Government's statement that to enable the reinsertion of trafficking victims, the FEVIMTRA within the Public Prosecutor's Office offers psychological, social and legal assistance through the Emergency Care Unit, in order to put an end to the isolation caused by the situation of trafficking. It further notes that the FEVIMTRA collaborates with the Mexican Commission for Assistance to Refugees (COMAR) in

order to enhance victims' access to the status of refugee. The Government adds that the Specialized Shelter for Comprehensive Care and Protection of Victims of Extreme Gender Violence and Trafficking in Persons of the Prosecutor General's Office, also offers temporary shelter to provide medical, psychological, social and legal assistance to victims of trafficking in persons. The Committee notes that the National Institute for Migration Migrant Protection Groups, known as Betas, who are located in strategic points in 22 municipalities of nine states and aim at the protection and defence of the human rights of migrants, regardless of their nationality or immigration status, provided assistance to 533,633 migrants from July 2015 to May 2018, and legal assistance to 413 of them orientating complaints towards the competent authority. It notes that over this period, the National Institute for Migration provided training on the prevention and detection of possible victims of trafficking in persons and illicit treatment of migrants to 683 civil servants, and elaborated and disseminated, in collaboration with the International Organization for Migration, in 2016, a protocol for the detection, identification and care of migrant victims and possible victims of trafficking in persons in Mexico. The Committee further notes that, according to the 2016 activity report of the Inter-Ministerial Committee, 889 possible victims of trafficking were identified (194 by federal authorities and 695 by local entities) and that rescue operations were carried out to free 433 possible victims. The Committee notes that, in its 2018 concluding observations, the CEDAW was concerned about the insufficient assistance, rehabilitation and reintegration measures for victims, including the inadequate number of shelters and the limited access to counselling, medical treatment, psychological support and redress, such as compensation for victims of trafficking, in particular migrant women (CEDAW/C/MEX/CO/9, 25 July 2018, paragraph 29). The Committee also notes that, in its 2017 concluding observations, the UN Committee on Migrant Workers (CMW) expressed further concern about the presence of trafficking victims in migrant holding centres and recommended that the Government adopts effective mechanisms for the identification and referral of trafficking victims who may be detained in such centres (CMW/C/MEX/CO/3, 27 September 2017, paragraph 37). ***While noting the measures taken by the Government, the Committee expresses the firm hope that the Government will pursue its efforts to ensure the effective safety and protection of victims of trafficking throughout the country, in particular those placed in migrant holding centres, so that they are able to assert their rights before the competent authorities. It requests the Government to provide information on the measures taken to this end and to continue to provide information on the number of victims of trafficking in persons identified, the number of victims who have asserted their rights before the competent authorities, and the remedies granted for such victims.***

***Article 25. Adequate and strictly enforced penalties.*** In its previous comments, the Committee noted that the 2012 Act confers special powers to the Public Prosecutor's Office and the police to combat trafficking in persons. It also noted that, according to the annual reports of the Inter-Ministerial Committee, one of the biggest obstacles to overcome was the impunity that surrounds the crime of trafficking in persons, despite the considerable increase in judicial proceedings in recent years as a result of the training activities undertaken, particularly at the federal level. The Committee notes the Government's indication that the FEVIMTRA within the Public Prosecutor's Office provided training for civil servants to better investigate crimes of trafficking in persons in the new criminal justice system and that several meetings and activities were undertaken in collaboration with the United States Department of Justice in 2016 and 2017, including for the staff of the Public Prosecutor's Office, to strengthen coordinated actions in the fight against trafficking in persons between Mexico and the United States. The Government adds that from 2015 to 2018, the FEVIMTRA coordinated four national meetings of Prosecutors and Specialized Units on Trafficking in Persons with a view to better strengthening the strategies and links of an effective collaboration between federal and state authorities, and achieve better effectiveness in the investigation and prosecution of the crimes of trafficking in persons. The Committee however notes from the 2018 report of the National Human Rights Commission on the intervention of the labour inspectorates in the prevention of trafficking in persons and the detection of possible victims in agricultural fields, that 36.4 per cent of labour inspectorates did not report or did not take action or prevent possible cases of trafficking, while it was estimated that 32.6 per cent of workers in agriculture did not receive any compensation. According to the report, 60 per cent of labour authorities at states level have less than ten inspectors and 51.5 per cent of labour authorities did not provide information or did not carry out training action for labour inspectors in the area of trafficking in persons. The Committee notes, from the statistical information forwarded by the Government that, from 2015 to 2017, 3,576 victims of trafficking in persons were registered by the Government of whom 23.9 per cent were victims for forced labour purposes, and notes that, over the same period, the number of judicial sentences remained stable with a total of 377 judicial sentences, of which 11 for forced labour, 38 for labour exploitation and 2 for slavery. The Committee notes that, in its 2018 concluding observations, the CEDAW was concerned about the low prosecution and conviction rates in cases of trafficking and that, in its 2019 concluding observations, the UN Committee against Torture (CAT) recommended that the Government ensure that cases of human trafficking are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions (CEDAW/C/MEX/CO/9, 25 July 2018, paragraph 29 and CAT/C/MEX/CO/7, 24 July 2019, paragraphs 60 and 61). ***In the light of the complexity of the crime of trafficking in persons, the Committee urges the Government to continue to take the necessary measures to strengthen the capacities of the police, labour inspectorate and public prosecution authorities to improve identification of the victims of trafficking, both for sexual exploitation and labour exploitation, to conduct thorough investigations and to gather the evidence required to prosecute and, in accordance with Article 25 of the Convention, impose really adequate penalties that are strictly enforced. In this regard, the Committee requests the Government to provide information on the number of judicial proceedings under way as well as the penalties imposed on perpetrators.***

## Mongolia

### **Forced Labour Convention, 1930 (No. 29) (ratification: 2005)**

*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.

## Mozambique

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1977)**

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

*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 Government indicated previously that re-education centres no longer existed and that the 1985 Directive had become obsolete and would be repealed within the framework of the revision of the Penal Code. The Committee observes with *regret* that the new Penal Code adopted in December 2014 (Act No. 35/2014) does not repeal this Directive. The Committee recalls that, under the terms of *Article 1(a) and (b)* of the Convention, States undertake not to make use of any form of forced or compulsory labour as a means of political coercion or education or as a method of mobilizing and using labour for purposes of economic development. **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, and thereby ensure 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. This Act provides 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, etc., 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, etc.) resulting in the infringement of managerial or disciplinary standards.

The Committee noted previously that in 2007 the Constitutional Council declared a law adopted by the Assembly of the Republic repealing Act No. 5/82 (as amended by Act No. 9/87) to be unconstitutional, considering that the blanket repeal of these Acts would have the effect of no longer criminalizing or punishing certain conducts that jeopardize economic development that are not punishable by other legislative texts, thereby leaving a legal vacuum. The Committee notes that, although the 2014 Penal Code repeals certain provisions of these two Acts, the sections covered by its previous comments, namely sections 7, 10, 12, 13 and 14, remain in force. **The Committee regrets that the Government did not take the opportunity of the adoption of the new Penal Code to bring its legislation into conformity with the Convention and it trusts that the Government will not fail to take the necessary measures to repeal the provisions of Act No. 5/82 concerning the defence of the economy, as amended by Act No. 9/87, which are contrary to the Convention.**

*Article 1(d). Penalties imposed for participation in strikes.* In previous comments, the Committee noted 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 that the Government has not provided any information on the nature of the penalties which may be faced by striking workers in cases where their criminal liability is incurred, nor on the provisions of the general legislation that are applicable in this respect. The Committee 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 imprisonment involving compulsory labour. **The Committee therefore once again requests the Government to indicate the nature of the penalties that may be imposed on striking workers where their criminal liability is incurred pursuant to the provisions of section 268(3) of the Labour Act. Referring also to its comments 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 take the necessary measures to ensure that no prison sentences involving compulsory labour can be imposed on workers who participate peacefully in a strike.**

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.**

## Myanmar

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1955)**

The Committee notes the observations of the International Trade Union Confederation (ITUC) received on 1 September 2019. 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 Myanmar of the Convention.

#### **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 25 of the Convention. Elimination of all forms of forced labour.* 1. *Engagement of the ILO regarding the elimination of forced labour.* (a) *Historical background.* In March 1997, a Commission of Inquiry was established under article 26 of the ILO Constitution to address the forced labour situation in Myanmar. As reported to the ILO Governing Body, forced labour had taken various forms in the country over the years, including forced labour in conflict

zones, as well as for public and private undertakings. In its recommendations, the Commission of Inquiry urged the Government to take the necessary steps to ensure that: (i) the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention; (ii) in practice, no more forced or compulsory labour be imposed by the authorities, in particular the military; and (iii) the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced.

Since then, the issue has been the focus of cooperation between the Government and the ILO for more than a decade. In 2002, an Understanding was agreed between the Government and the ILO, which permitted the appointment of an ILO Liaison Officer. Later in 2007, the Supplementary Understanding (SU) was signed, in particular, to set out a complaints mechanism with the objective “to formally offer the possibility to victims of forced labour to channel their complaints through the services of the Liaison Officer to the competent authorities with a view to seeking remedies available under the relevant legislation and in accordance with the Convention”. In addition, in 2012, the ILO concluded a Memorandum of Understanding (MoU) on a Joint Strategy for the Elimination of Forced Labour by 2015, which provided a basis for seven interrelated action plans. The ILO also participated in the Country Task Force on Monitoring and Reporting on underage recruitment issues.

(b) *Recent developments.* The Action Plan for the elimination of all forms of forced labour, 2018 and the SU, which provided for a complaints mechanism, expired in December 2018. On 21 September 2018, the Government, the workers’ and employers’ organizations and the ILO signed the MoU on Decent Work Country Programme (DWCP) (2018–21). The significant implementation outputs, as indicated in the DWCP document, include institutionalization of national forced labour complaints mechanisms and strengthened protection against unacceptable forms of work, in particular forced and child labour by 2021. The Committee notes that in the course of the discussion in October–November 2019, the Governing Body noted, in respect of progress in the elimination of the use of forced labour that the number of complaints received had continued to decrease since 2016 suggesting progress towards elimination of underage recruitment, which generally accounted for the highest proportion of complaints received. It noted that in 2019 the ILO received 108 forced labour complaints, 48 of which have been assessed as being within the definition of forced labour while there were no complaints received of forced labour related to the involuntary use of civilians as guides and porters from conflict areas. Very few reports of forced labour in the private sector have been received since March 2019. The Governing Body also noted that the proposal for the establishment of a National Complaints Mechanism (NCM) was approved by the Government by a letter dated 7 August 2019 (GB.337/INS/9). The Governing Body noted that the ILO stressed on the following elements as necessary for a credible and effective complaints mechanism: (a) impartiality in the assessment and investigation of complaints; (b) guaranteed protection of victims; (c) credible accountability; (d) decentralization of responsibility to eliminate forced labour; and (e) awareness-raising programmes, particularly for those living in remote and conflict-affected areas. Although the Government had publicly advertised its intention to establish an NCM, no reference had been made to complainants being able to continue to submit complaints to the ILO. The GB also noted that while the Government had made efforts to develop interim procedures for dealing with complaints, a framework for the development of the NCM and an action plan for the elimination of forced labour under the DWCP, the victim protection measures remained unclear and the decentralization responsibility to state and regional governments to eliminate forced labour still needed to be addressed.

2. *Application of the Convention in law and in practice.* In its previous comments, the Committee noted that the Ward or Village Tract Administration Act of 2012, which repealed the Village Act and the Towns Act of 1907 makes the use of forced labour by any person a criminal offence punishable with imprisonment and fines (section 27A). It noted that no action had been taken to amend article 359 of the Constitution (Chapter VIII – Citizenship, fundamental rights and duties of citizens), which exempts from the prohibition of forced labour “duties assigned by the Union in accordance with the law in the interest of the public” and could be interpreted in such a way as to allow a generalized exaction of forced labour from the population. It also noted that the developments within the peace process, such as the National Ceasefire Agreement of 2015 as well as the ILO initiation with the Government and the Ethnic Armed groups which resulted in two non-state armed groups committing to end forced labour, led to a significant decrease in the numbers of reported cases of forced recruitment for military purposes by both the security forces and armed groups. The Committee, however, noted from the Report of the Detailed Findings of the Independent International Fact-Finding Mission on Myanmar of 17 September 2018 (A/HRC/39/CRP.2) that the use of forced labour by the *Tatmadaw* (the armed forces of Myanmar) persisted, particularly in Kachin and Shan States, as well as among the ethnic *Rakhine* and *Rohingya*. It noted that in many instances, the *Tatmadaw* arrived in a village and took villagers directly from their homes or from the areas surrounding their village while they were fishing, farming, running errands or travelling while in some cases, this was done in an organized way, such as house by house, on the basis of a quota for each family, through a list, or with the cooperation of village leaders. Persons subjected to forced labour were required to perform a variety of tasks and the duration varied from a few days to months. Many of them were required to act as porters, carrying heavy packages including food, clothes and in some cases weapons. Other common types of work included digging trenches, cleaning, cooking, collecting firewood, cutting trees, and constructing roads or buildings in military compounds. Victims were also sometimes required to fight or participate in hostilities. Often, victims were given insufficient food of poor quality or were not able to eat at all. They did not have access to water and were kept in inadequate accommodation, including in the open air without bedding and without adequate sanitary facilities. Victims were subjected to violence if they resisted, worked slowly or rested. Particularly, female victims also faced sexual violence (paragraphs 258–273, 412–424 and 614–615). The Committee noted with deep concern the persistence of forced labour imposed by the *Tatmadaw* in Kachin and Shan States, as well as among the ethnic *Rakhine* and *Rohingya*. It urged

the Government to strengthen its efforts to ensure the elimination of forced labour in all its forms, in both law and practice, particularly the forced labour imposed by the *Tatmadaw*; to take the necessary measures to ensure the strict application of the provisions of the Ward or Village Tract Administration Act of 2012 and the Penal Code; as well as to provide information on any progress made regarding the amendment to article 359 of the Constitution.

The Committee notes that, in its observations, the ITUC stated that forced labour is exacted in a systematic and continuous manner and that this practice is also persistent in the private sector, especially in the agricultural sector (fisheries, sugarcane, beans) and in the jade industry. The ITUC further highlights the plight of the *Rohingya* population, nearly 700,000 of them, who were expelled from the *Rakhine* State following the so-called clearance operations, commenced in 2017, and who are at an increased risk of falling victims to forced labour by both state and non-state actors.

The Committee notes the statement made by the Government representative of Myanmar to the Conference Committee that a total of ten ethnic armed forces have already signed the National Ceasefire Agreement and a unilateral ceasefire has been announced in the States of *Kachin* and *Shan* from December 2018 to April 2019. The Government representative further indicated that interim procedures for continuously receiving complaints are in place and that a Joint Parliamentary Committee was established to amend the Constitution. The Worker members, in their statement to the Conference Committee, alleged that the Government failed to implement most of the activities designed under the 2012 and 2018 action plans. The Committee notes that the Conference Committee, in its concluding observations, while welcoming the efforts in eliminating forced labour, expressed concern over the persistent use of forced labour and therefore urged the Government to take all necessary measures to ensure that forced labour is not imposed in practice by the military or civilian authorities; to ensure that victims of forced labour have access to effective remedies and comprehensive victim support without fear of retaliation; to increase the visibility of awareness-building and capacity-building activities for the general public and administrative authorities to deter the use of forced labour; to provide detailed information on the progress made within the DWCP; and to intensify its cooperation with the ILO through the development of a time-bound action plan for the establishment of, and transition to, an effective complaints handling procedure.

The Committee notes the Government's information in its report that within the framework of the DWCP, in January 2019, a Training of Trainers on the Elimination of Forced Labour was conducted with representatives from the High Level Working Group (HLWG), members of the Technical Working Group (TWG) and representatives of the ILO. Moreover, a knowledge-sharing workshop was held during the same period with 50 representatives, including members from the HLWG, TWG, representatives of ILO, Government, and employers' and workers' organizations to share good practices of other countries on developing the National Complaints Mechanism. Furthermore, an action plan for developing the NCM (2019–21) on forced labour has been drafted. The Government indicates that the interim procedures for receiving and resolving forced labour complaints are, and will be, carried out by the HLWG until the establishment of the NCM. According to the Government's report, to date, the HLWG has received ten complaints concerning forced labour.

The Committee also notes the Government's information that from July 2018 to August 2019, a total of 6,423 awareness-raising workshops on forced labour were conducted for an estimated 507,935 people in related townships across the country and 115,113 posters were distributed. Moreover, to prevent the use of forced labour in the private sector, from January 2018 to July 2019, 1,903 knowledge-sharing workshops were conducted with 92,698 participants from 4,252 factories, shops, establishments and training centres. Regarding the amendments to the Constitution, the Committee notes the Government's statement that the Ministry of Labour, Immigration and Population has submitted a proposal to the Joint Parliamentary Committee, established to amend the Constitution, to consider the amendment of article 359 of the Constitution in August 2019. The Committee further notes the Government's information that no one was punished under the Ward or Village Tract Administration Act and the Penal Code from July 2018 to July 2019. While taking note of the measures taken by the Government towards the elimination of all forms of forced labour, the Committee once again reminds the Government that, by virtue of *Article 25* of the Convention, the exaction of forced or compulsory labour shall be punishable as a penal offence, and the penalties imposed by law shall be really adequate and strictly enforced. ***The Committee therefore strongly urges the Government to take the necessary measures to ensure the strict application of the national legislation, particularly the provisions of the Ward or Village Tract Administration Act of 2012 and the Penal Code, so that sufficiently dissuasive penalties of imprisonment are imposed and enforced against perpetrators in all cases. In this regard, the Committee requests the Government to provide information on the application in practice of the above-mentioned legislation to ensure accountability, including the statistical data on cases of forced labour detected and the specific penalties imposed on perpetrators. It also requests the Government to continue providing detailed information on the measures taken to ensure that, in practice, forced labour is no longer imposed by the military or civilian authorities, as well as the private sector, such as awareness-raising and capacity-building activities for local administrators, military personnel, other stakeholders and the general public. The Committee further urges the Government to take the necessary measures to ensure the establishment and functioning of the National Complaints Mechanism, without delay and that the procedures for amending article 359 of the Constitution will be carried out in the very near future. It requests the Government to provide information on any progress made in this regard. The Committee finally requests the Government to continue to provide information on the number of complaints on forced labour received and resolved by the HLWG interim complaints mechanism. It once again reiterates the firm hope that all the necessary measures will be taken, in law and in practice, without delay to achieve full compliance with the Convention so as to ensure that all use of forced or compulsory labour in Myanmar is completely eliminated.***

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

## Oman

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1998)**

*Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant workers to conditions of forced labour. Migrant workers and migrant domestic workers.* In its previous comments, the Committee noted that migrant workers are covered by Labour Law No. 35 of 2003 (Chapter 2: Regulation of foreigners' work) and that they can terminate their employment contract after a notification period of 30 days. The Committee also noted that migrant domestic workers are not covered by the Labour Law and that their work is regulated by Ministerial Order No. 1 of 2011, on the recruitment of non-Omani workers by private employment agencies, as well as the model contract for recruiting migrant domestic workers. It further noted that under Ministerial Decree No. 189/2004 on the Special Terms and Conditions of Domestic Workers, migrant domestic workers cannot work for another employer before completing the procedure of changing to another employer according to the national regulations (section 7). The Committee requested the Government to indicate the manner in which this category of workers can freely terminate their employment contract and to report on the number of employment transfers that took place in practice for migrant workers and migrant domestic workers.

The Committee notes the Government's indication in its report that the period of time required to transfer a worker from one employer to another varies from a minimum of one day to a maximum of one month, depending on the readiness of the parties. The Government also states that there is no sponsorship (*kafala*) system in Oman and that the system in place is a temporary contractual relationship pursuant to an employment contract specifying the terms and signed by the worker and the employer. According to the Government, the reduction in the number of cases involving the transfer of workers is a positive reflection of labour force stability in employment, which provides evidence of a decent working environment in Oman as a result of the efforts made by the Ministry of Manpower, in cooperation with the ILO, to implement the Decent Work Country Programme since 2010.

Regarding migrant domestic workers, the Committee notes the Government's indication that the procedures for terminating domestic workers' contracts and the period required to transfer their services from one employer to another are the same procedures as those that apply to all workers.

The Committee notes that pursuant to section 8 of Ministerial Decree No.189/2004, on the Special Terms and Conditions of Domestic Workers, the employment contract can be terminated by either the employer or the worker provided that one month's notice is given. The worker is entitled to terminate the employment contract without providing a prior notice in case of abuse by the employer or a member of the employer's family. The Committee notes however that pursuant to section 7(4), the migrant domestic worker cannot work for another employer before the recruiter relinquishes his sponsorship and completes the necessary procedures in this regard.

The Committee observes that while there are provisions allowing migrant workers, including domestic workers to terminate their employment contract, the conditions for changing employment remain difficult in practice, as the work permit of this category of workers is linked to their sponsor-employer pursuant to sections 17 and 20 of the Foreign Residence Act No.16/95 of 1995. These provisions stipulate that the residence visa is given to the foreign worker by his sponsor and the conditions and the procedures of transfer of the foreign worker to another sponsor are determined by the decision of the Inspector-General of the Ministry of Interior.

The Committee notes that in its concluding observations of 2017, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended that the Government of Oman review the *kafala* system, which operates against vulnerable migrant workers. The Committee further notes that this Committee observed that, while the Government had adopted a number of measures to protect the rights of female migrant domestic workers, the *kafala* system still increases their risk of exploitation. The CEDAW was also concerned about: the exclusion from the Labour Law of this category of workers and, therefore, from access to the labour courts, their risk of facing charges of "absconding", as well as the fact that forced labour is not criminalized under the Penal Code and is prohibited only under the Labour Law, which does not apply to domestic workers (CEDAW/C/OMN/CO/2-3, paragraphs 30(h) and 39).

The Committee recalls that the sponsorship system creates a relationship in which migrant workers, including domestic workers, are dependent on their sponsors-employers, and that the work permit of this category of workers is linked to their sponsors. The Committee observes that such a system prevents migrant workers from freely terminating their employment and increases their risk of vulnerability to situations amounting to forced labour. ***In this regard, the Committee requests the Government to strengthen its efforts to ensure that migrant workers, including migrant domestic workers are not exposed to practices that amount to forced labour. The Committee once again requests the Government to indicate the manner in which migrant workers including migrant domestic workers, can exercise, in practice their right to freely terminate their employment, so that they do not fall into abusive practices that may arise from the sponsorship system. The Committee also requests the Government to provide further information on the application in practice of the sponsorship system, including information on the number of migrant workers who have changed employer and whose work permits have been transferred to a new employer.***

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

## **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2005)**

*Article 1(a) of the Convention. Sentences of imprisonment involving the obligation to work as a punishment for expressing certain political views or views ideologically opposed to the established political, social or economic system.* In its previous comments, the Committee noted that sentences of imprisonment (involving the obligation to work under section 25 of the Prison Regulations (Decree No. 48 of July 1998)) may be imposed under various provisions of the national legislation in circumstances covered by *Article 1(a)* of the Convention, namely:

- Section 134 of the Penal Code, which prohibits the establishment of associations, (political) parties and organizations which are opposed to the political, economic and social system of the Sultanate. Any organization that is established in violation of these provisions shall be dissolved and its founding members and any other member shall be sentenced to a penalty of imprisonment (from one to ten years).
- Sections 5 and 54 of the Law on private associations (Royal Decree No. 14/2000) which prohibit the establishment of associations or parties for political or religious purposes and establish a penalty of imprisonment of six months for any person who participates in activities other than those for which the association was established.
- Section 61 of the Law on telecommunications (Royal Decree No. 30 of 12 March 2002) which provides for a penalty of imprisonment of one year for any person who, using a means of telecommunication, draws up a message that is contrary to public order and morals or which is intended to injure a person through the use of false information.
- The Law on publication and printing (Royal Decree No. 49/84 of 26 May 1984) which prohibits any publication prejudicial to the person of the King, the image of Islam or imperiling the prestige of the State (section 25); any publication injurious to the national currency or giving rise to confusion about the economic situation of the country (section 27); and the publication of information or the coverage of any subject without prior authorization from the Ministry of Information and Communications (section 33).

The Committee notes the Government's indication in its report that no court decisions have been handed down for violation of the above-mentioned provisions. The Committee recalls that section 134 of the Penal Code, sections 5 and 54 of the Law on private associations, section 61 of the Law on telecommunications, and sections 25, 27 and 33 of the Law on publication and printing are worded in terms broad enough to be used as a means of punishment for peacefully expressing political views and, insofar as they are enforceable with sanctions of imprisonment involving compulsory labour, they may fall within the scope of the Convention. The Committee also recalls that *Article 1(a)* of the Convention prohibits the use of forced or compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views. The range of activities which must be protected, under this provision, from punishment involving forced or compulsory labour thus 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 and which may also be affected by measures of political coercion (see the 2012 General Survey on the fundamental Conventions, paragraph 302). *The Committee therefore requests the Government to take the necessary measures to repeal or amend the above-mentioned national legislation so that no penal sanctions involving compulsory prison labour may be imposed on persons who, without using or advocating violence, express certain political views or views opposed to the established political, social or economic system. Pending the adoption of such measures, the Committee requests the Government to provide information on the application in practice of the above-mentioned provisions, including copies of relevant court decisions.*

## **Pakistan**

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1957)**

*Articles 1(1), 2(1) and 25 of the Convention. I. Debt bondage. 1. Legislative framework.* The Committee previously noted the Government's statement that the Bonded Labour System (Abolition) Act 1992 remained applicable in the Islamabad Capital Territory (ICT) and Balochistan Province. The Committee noted that the Governments of Khyber Pakhtunkhwa (KPK) Province and Sindh Province adopted the KPK Bonded Labour System Abolition Act 2015, and the Sindh Bonded Labour System (Abolition) Act 2015, respectively, both of which contained provisions prohibiting bonded labour, extinguishing remaining debts, and providing for criminal penalties in case of violations. However, the Committee noted the information of the All Pakistan Federation of Trade Unions (APFTU) that, despite the prohibition of bonded labour by law, this practice persisted in brick kilns due to the absence of effective enforcement of the law. The Committee therefore urged the Government to take immediate measures to ensure the effective application of the newly enacted provincial legislation related to the abolition of bonded labour in practice, and to provide information in this regard.

The Committee notes the Government's information in its report that the Government of Punjab enacted the Punjab Bonded Labour System (Abolition) (Amendment) Act, 2018 and that the Balochistan Bonded Labour Bill, 2019 is under the process of promulgation. It also notes the Government's information that the Ministry of Overseas Pakistanis and Human Resource Development (OP and HRD) in consultation with the ILO has initiated the "Gap analysis concerning Protocol of 2014 to the Forced Labour Convention, 1930" with the aim of: (i) identifying the extent to which Convention No. 29 and

the Protocol have been incorporated into the national laws and policies; (ii) identifying gaps in the application of Convention No. 29 and areas where current mechanisms and actions to address forced labour need to be strengthened to meet the requirements of the Protocol; and (iii) formulating a set of recommendations to support greater compliance with Convention No. 29 and move towards the ratification of the Protocol.

The Committee further notes that according to the findings of the study conducted by the Bureau of Statistics Planning and Development Department of the Government of KPK in May 2017 on bonded labour in the brick kiln industry in the two districts of KPK, of the total of 190 brick kilns in the two districts, a range of four to 270 workers were found working in each kiln. The study reveals that according to the data collected from the workers in the brick kilns, no evidence of forced labour or punishment by owners was found and that they were all treated humanely and according to the laws. The Committee also notes the information from this study that, unlike Punjab, the rights of workers in the brick kiln in KPK are protected mainly due to enforcement of the laws. ***The Committee requests the Government to continue taking effective measures to eliminate bonded labour in all its provinces, including through the effective implementation of the newly enacted provincial laws abolishing bonded labour and to provide information in this regard. It also expresses the firm hope that the Government will take the necessary measures to ensure the adoption of the Balochistan Bonded Labour Bill, 2019 and requests the Government to provide information on any progress made in this regard.***

2. *Programmes of action.* The Committee previously noted the measures taken by the provincial governments to eliminate bonded labour, such as the adoption and implementation of the Provincial Plan of Action to Combat Bonded Labour and the ILO project entitled “Strengthening Law Enforcement Responses and Action against Internal Trafficking and Bonded Labour” by the Governments of the Provinces of Sindh and Punjab as well as the implementation of the “Elimination of Bonded Labour in Brick Kilns” project in Punjab.

The Committee notes the Government’s information that the Provincial Action Plan to combat Bonded Labour in Punjab is in progress and a Legal Aid Service Unit has been established by the Punjab Labour Department to help the victims of bonded labour. It also notes that the Labour and Human Resources Department of Punjab, with support of the ILO technical cooperation project is undergoing a gap analysis of the project entitled “Elimination of Child and Bonded Labour Project – an integrated project for the promotion of decent work of vulnerable workers in Punjab”. The Committee also notes that the Government of Sindh has released and rehabilitated eight families under bondage from the district of Khairpur. The Government further indicates that the Government of Balochistan is making efforts to adopt a specific development scheme for brick kiln workers through a survey in Balochistan. Furthermore, the Committee notes from the Government’s report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that the National Strategic Framework to Eliminate Child and Bonded Labour in Pakistan, which sets 18 recommendations of actions by provinces to eliminate child and bonded labour, has been adopted in 2017. ***The Committee encourages the Government to pursue its efforts to combat and eliminate bonded labour, as well as to continue adopting measures aimed at supporting freed bonded labourers. It requests the Government to continue to provide detailed information on the specific measures implemented in the Punjab and other provinces in this regard, including the actions taken under the National Strategic Framework, as well as information on the concrete results of these initiatives, including the number of bonded labourers and former bonded labourers, benefiting from these measures.***

3. *District vigilance committees (DVCs).* The Committee previously noted the Government’s indication that it was impossible to monitor bonded labour through the normal inspection procedure and hence DVCs were established under the provincial bonded labour laws. It noted that the DVCs were operational throughout Punjab while the KPK and Sindh Provinces had enacted new laws on bonded labour, under which the DVCs would be re-established in accordance with the rules framed. Moreover, Balochistan Province indicated that the DVCs would be functionalized without delay. The Committee requested the Government to take the necessary measures to ensure that the DVCs would be re-established in KPK and Sindh Provinces under the new laws and functionalized in Balochistan.

The Committee notes the Government’s information that there are seven DVCs working efficiently in the Province of Sindh. These DVCs comprise the elected representatives of the area, representatives of the District Administration, Bar Associations, press, recognized social services and the Labour Department of the Province. The Government report indicates that the Islamabad Capital Territory (ICT) has also established DVCs to eliminate bonded labour from brick kilns. The Punjab Bonded Labour System (Abolition) (Amendment) Act, 2018 contains provisions to strengthen and streamline inspections and reporting through reactivating the DVCs and redefining the role of authorized inspectors. According to the Government’s report, in Punjab, 188 DVC meetings were held in all the 36 districts in 2018. The Government further indicates that in 2018, 7420 inspections related to bonded labour were carried out in Punjab, 33 complaints were received, 24 complaints were disposed of and one case was referred to the DVC. Moreover, it notes that the Government of Punjab formulated a subcommittee in April 2019 to assist the Provincial Vigilance Committees to review the implementation of the law and action plan relating to the abolition of bonded labour and the rehabilitation of freed bonded labourers; to monitor the working of the DVC; and to address the concerns of the national and international bodies on matters relating to bonded labour. ***The Committee encourages the Government to continue its efforts to establish, reinforce and strengthen the DVCs in all the provinces, including in Balochistan. It also requests the Government to continue to provide information on the functioning of the DVCs, including the number of bonded labourers identified and rescued, and to provide copies of monitoring or evaluation reports. It further requests the Government to indicate if any legal action has been taken against***

*persons employing bonded labourers, and to provide information on the number of prosecutions, convictions, and specific penalties applied, as well as copies of relevant court decisions.*

4. *Data-gathering measures to ascertain the current nature and scope of bonded labour.* In its previous comments, the Committee urged the Government to pursue its efforts to ensure that a survey of bonded labour would be undertaken in each province of the country in the near future, in cooperation with employers' and workers' organizations and other relevant partners.

The Committee notes the Government's reference to the study conducted in 2017 in the brick kiln industry in the two districts of KPK. The Committee notes the Government's indication that due to the traditionally hidden nature of the cases of bonded labour, no survey has been conducted so far on bonded labour. However, provinces are making efforts to conduct surveys and research studies on the subject, for formulation of a comprehensive bonded labour eradication policy. *The Committee encourages the Government to pursue its efforts to conduct surveys and research studies on bonded labour in all the provinces. It requests the Government to provide information on any measures taken in this regard, as well as copies of the surveys, once completed.*

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

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)**

*Articles 1(a) and (e) of the Convention. Penalties involving compulsory labour as a punishment for expressing political views and as a means of religious discrimination.* In its previous comments, the Committee observed that sections 10–13 of the Security of Pakistan Act 1952; sections 5, 26, 28 and 30 of the Press, Newspaper, News Agencies and Books Registration Ordinance 2002; section 32(2) and (3) of the Electronic Media Regulatory Authority Ordinance 2002; and sections 8 and 9 of the Anti-Terrorism Act 1997, provided for restrictions on the expression of political views and provided for penalties of imprisonment involving compulsory labour in cases of violations. The Committee also referred to sections 298B(1) and (2) and 298C of the Penal Code, inserted by the Anti-Islamic Activities of Qadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, No. XX of 1984, under which any person of these groups who uses Islamic epithets, nomenclature and titles is punishable with penalties of imprisonment (which may involve compulsory labour) for a term of up to three years. In this regard, the Committee noted the Government's statement that, the Ministry of Overseas Pakistanis and Human Resources Development submitted a proposal to the Ministry of Law and Justice to consider bringing any breach of the civil and social rights and liberties beyond the purview of criminal punishment; to limit penalties for such breaches to fines or other sanctions that does not involve compulsory labour; and to confer a special status to prisoners convicted of political offences. The Committee therefore requested the Government to continue its efforts to bring the above-mentioned laws into conformity with the Convention in the near future, and requested the Government to provide information on any progress made in this regard.

The Committee notes that the Government's report does not contain any information on this matter. *The Committee therefore urges the Government to take the necessary measures to amend the above-mentioned provisions, either by repealing them, by limiting their scope to acts of violence or incitement to violence, or by replacing sanctions involving compulsory labour with other kinds of sanctions (e.g. fines), in order to ensure that no form of compulsory labour (including compulsory prison labour) may be imposed on persons who, without using or advocating violence, express certain political views or oppositions to the established political, social or economic system. It also 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.

## **Philippines**

### **Forced Labour Convention, 1930 (No. 29) (ratification: 2005)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. Law enforcement measures and penalties.* The Committee previously requested the Government to provide information on the measures taken to strengthen the capacity of law enforcement agencies and the activities undertaken within the framework of the National Strategic Action Plan for 2012–16.

The Committee notes the Government's indication in its report that the Anti-Trafficking Task Forces all over the country have conducted a total of 136 training, capacity-building and seminars on trafficking in persons and other related topics which were attended by a total of 6,593 participants. Some 2,098 came from private sectors and non-government organizations while 4,495 were government personnel. The Government also indicates that the National Bureau of Investigation (NBI) is in the final drafting stage of the creation of the NBI Manual and Standard Operating Procedures for Trafficking in persons and online sexual exploitation of children cases. This aims to improve the efficiency of investigations and operations involving trafficking in persons and online sexual exploitation of children cases. Moreover, in 2018, the NBI conducted 32 operations nationwide causing the arrest of 67 offenders and the rescue of 620 victims, 123 of whom are minors. There were a total of 201 illegal recruitment cases, 75 (37 per cent) of which were filed in Court. The National Police has investigated a total of 300 trafficking in persons cases, which resulted in the rescue of 1,039 victims and the arrest of 498 suspects. According to the Government, the establishment of 24 Anti-Trafficking Task Forces in the country with 226 prosecutors significantly contributed to the increase in the prosecution of trafficking in persons cases. The Committee

notes that in 2018, a total number of 88 persons were convicted, in comparison to 48, in 2017. The Committee notes that a 2017–21 National Strategic Action Plan Against Trafficking in Persons has been adopted. It also observes from the UNICEF 2016 Summary Report on Situation Analysis of Children in the Philippines that domestic and cross-border trafficking of women and children for sexual exploitation continues, with 1,465 victims of trafficking assisted in 2015, and sex tourism reportedly on the rise (page 24). ***Taking due note of the measures taken by the Government, the Committee requests the Government to continue to take measures to strengthen the capacity of law enforcement bodies to combat trafficking in persons and to identify victims of trafficking, and to provide statistical information on the number of legal proceedings initiated, convictions handed down and penalties imposed. The Committee also requests the Government to provide a copy of the 2017–21 National Strategic Action Plan against Trafficking in Persons, indicating the measures taken within its framework and the results achieved.***

***Complicity of law enforcement officials in trafficking activities.*** The Committee notes the relevant points from the Court of Appeals Decision of 2018, in which the accused was acquitted for lack of evidence of complicity in a case of trafficking. The Committee notes that the UN Committee on Economic, Social and Cultural Rights, in its concluding observations of October 2016, expressed concern at the persistently high incidence of trafficking in women and children; the very small number of prosecutions and convictions of traffickers; the insufficient level of understanding of the issues relating to trafficking and the anti-trafficking legal framework among law enforcement officials; and the allegations of complicity of law enforcement officials in the cases related to trafficking in persons (E/C.12/PHL/CO/5–6, paragraph 41). ***The Committee requests the Government to strengthen its efforts to ensure that complicit law enforcement officials are subject to thorough investigations and prosecutions, and that appropriate and dissuasive penalties are imposed. It requests the Government to provide updated information on the number of cases registered and prosecuted, as well as the sanctions imposed.***

***Protection and assistance to victims.*** The Committee notes the Government's indication that the Department of Social Workers and Development (DSWD) implements the Recovery and Reintegration Program for Trafficked Persons (RRPTP) since 2011. The RRPTP is a comprehensive programme that ensures that adequate recovery and reintegration services are provided to trafficked persons. Utilizing a multi-sectoral approach, it delivers a complete package of services that will enhance the psychosocial, social and economic needs of the victims. It also enhances the awareness, skills and capabilities of the families and the communities where the trafficked persons will eventually return. It also improves community-based systems and mechanisms that ensure the recovery of the victims, and prevents other families and community members from being victims of trafficking. In 2018, according to the DSWD, the RRPTP served and assisted a total of 2,318 identified trafficked persons, of whom 1,732 (75 per cent) are women while 611 (26 per cent) are minors. The Government also indicates that in June 2018, a Residential Care Facility for Male Victims of Trafficking in Mindanao was set up in collaboration with the Local Government Unit of Tagum City. It aims to provide services in recovery, rehabilitation and reintegration of trafficked victims. As of 2018, there were 44 residential care facilities available in the country for victims of trafficking: 24 for children; 13 for women; 1 for men; 4 for older persons; and 2 for processing centres. ***The Committee requests the Government to continue to take measures to ensure that appropriate protection and assistance is provided to victims of trafficking and to provide statistical information on the number of victims who have been identified, as well as those who have benefited from the RRPTP services.***

***Articles 1(1) and 2(1). Vulnerable situation of migrant workers with regard to the exaction of forced labour.*** The Committee notes the Government's indication that, the Department of Foreign Affairs, Department of Health, Department of Labor and Employment, Department of Social Welfare and Development, Department of Interior and Local Government, Manila International Airport Authority, Philippine Overseas Employment Administration and Philippine Charity Sweepstakes Office, issued Joint Memorandum Circular No. 2017-0001 dated 16 June 2017 entitled "Integrated Policy Guidelines and Procedures in the Implementation of the Inter-Agency Medical Repatriation Program (IMRAP) for Overseas Filipinos". This programme aims to establish an integrated system and process flow in medical repatriation among appropriate government agencies and stakeholders. In addition, the Government indicates that the Philippine Overseas Employment Administration (POEA) provides overseas jobseekers with Pre-Employment Orientation Seminar (PEOS) on for example, legal modes of recruitment, the procedures and documentary requirements when applying for jobs, and the government services available to overseas job applicants and hired workers. For 2018, the POEA conducted community-based PEOS with a total of 30,517 participants, among them 9,935 males, 10,848 females and 9,736 with unspecified sex. The POEA has also entered into partnerships with 50 local government units and one non-government organization and conducted 48 anti-illegal recruitment and anti-trafficking in persons seminar nationwide, with 1,695 male participants and 1,544 female participants.

The Committee further observes that in its concluding observations, the UN Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the adoption, in 2010, of the amended Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act No. 10022) to protect migrant workers working in the state party. It was concerned, however, at the widespread exploitation and abuse of Filipina migrant workers working abroad, in particular as domestic workers, and the insufficient support provided to reintegrate those who return (CEDAW/C/PHL/CO/7–8, paragraph 37). ***Taking due note of the measures taken by the Government, the Committee requests it to ensure that migrant workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour. The Committee also***

*requests the Government to continue to supply information on the pre-departure services provided for migrant workers, indicating also the assistance received in case of forced labour practices.*

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1960)**

*Article 1(a) of the Convention. 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 hoped that the Government would take the necessary measures within the framework of the revision of the Penal Code, to amend sections 142 (inciting to sedition by means of speeches, proclamations, writings or emblems; uttering seditious words or speeches; writing, publishing or circulating scurrilous libels against the Government) and 154 (publishing any false news which may endanger the public order or cause damage to the interest or credit of the State, by means of printing, lithography or any other means of publication) of the Penal Code under which penalties of imprisonment (involving compulsory prison labour) may be imposed.

The Committee notes the Government's indication in its report that sections 142 and 154 of the revised Penal Code do not provide for a penalty of forced labour, rather a penalty of "prison correccional" under section 142 and a penalty of "arresto mayor" under section 154. Both penalties range from six months and one day to six years imprisonment. In this connection, the Committee once again observes that sections 142 and 154 of the Revised Penal Code are worded in terms broad enough to lend themselves to be applied as a means of punishment for the peaceful expression of views, enforceable with sanctions involving compulsory prison labour under Chapter 2, section 2, of the Bureau of Corrections manual. The Committee further notes that, in the 2017 Report of the Officer of the United Nations High Commissioner for Human Rights, the Human Rights Committee expressed regret that the Cybercrime Prevention Act of 2012 had criminalized libel over the internet. It urged the State party to consider the decriminalization of defamation (A/HRC/WG.6/27/PHL/2, paragraph 39). The Committee notes with *regret* that under section 4(4) of the Cybercrime Prevention Act, libel is punishable by a prison sentence ranging from six months and one day to six years, involving compulsory prison labour.

The Committee recalls that *Article 1(a)* prohibits the use of forced or compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. It emphasizes that the range of activities which must be protected under this provision, from punishment involving forced or compulsory labour, thus includes the freedom to express political or ideological views (which may be exercised orally or through the press and other communications media (see 2012 General Survey on the fundamental Conventions, paragraph 302). *The Committee therefore, urges the Government to take the necessary measures to repeal or amend sections 142 and 154 of the Revised Penal Code, as well as section 4(4) of the Cybercrime Prevention Act in order to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system.*

*Article 1(d). Punishment for having participated in strikes.* Over a certain number of years, the Committee has been drawing the Government's attention to section 263(g) of the Labor Code under which in the event of a planned or current strike in an industry considered indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and settle it or certify it for compulsory arbitration. Furthermore, the President may determine the industries indispensable to the national interest and assume jurisdiction over a labour dispute. The declaration of a strike after such "assumption of jurisdiction" or submission to compulsory arbitration is prohibited (section 264), and participation in an illegal strike is punishable by imprisonment (section 272(a) of the Labor Code), which involves an obligation to perform labour. Furthermore, the Revised Penal Code also provides for sanctions of imprisonment for participation in illegal strikes (section 146). The Committee requested the Government to take the necessary measures to amend the above-mentioned provisions of the Labor Code and the Revised Penal Code so as to ensure their compatibility with the Convention.

The Committee notes the Government's explanation on the absence of a forced labour penalty for participation in an illegal strike under the provisions of the Labor Code. The Committee points out however that pursuant to sections 272(a) and 264 of the Labor Code and 146 of the Penal Code, participation in illegal strikes is punishable with imprisonment from three months to three years, and from six months and one day to six years, respectively, penalty that involves compulsory prison labour under chapter 2, section 2, of the Bureau of Corrections Manual. The Committee further recalls that the Convention prohibits the imposition of compulsory labour, including compulsory prison labour, on persons participating peacefully in a strike. *The Committee requests the Government to take the necessary measures to amend the above-mentioned provisions of the Labor Code and the Revised Penal Code so as to ensure that penalties of imprisonment (involving compulsory labour) cannot be imposed for the mere fact of persons peacefully participating in strikes. Pending the adoption of such measures, the Committee requests the Government to provide copies of court decisions issued under the above-mentioned sections of the Penal Code and the Labor Code in order to assess their application in practice, indicating in particular the facts that gave rise to the conviction, and the penalties applied.*

## Poland

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1958)**

*Articles 1(1), 2(1) and 25 of the Convention.* *Vulnerable situation of migrant workers with regard to the exaction of forced labour.* The Committee previously noted the observations of the Independent and Self-Governing Trade Union (“Solidarnosc”) that there had been exploitation of citizens of the Democratic People’s Republic of Korea (DPRK) for forced labour in Poland. In 2012, there were 509 DPRK workers brought legally to Poland. Reportedly they had to send back to the regime a large part of their legitimate earnings. The Committee also noted that, according to the report of the Special Rapporteur of the United Nations on the situation of human rights in the DPRK, nationals of the DPRK were being sent abroad by their Government to work under conditions that reportedly amount to forced labour, mainly in the mining, logging, textile and construction industries. The workers were forced to work sometimes up to 20 hours per day with only one or two rest days per month and given insufficient daily food rations. They were under constant surveillance by security personnel and their freedom of movement was unduly restricted. Workers’ passports were also confiscated by the same security agents.

The Committee noted the Government’s statement that, in response to the signals revealed in 2016, the National labour inspectorate and the Border Guards carried out monitoring activities covering all entities employing the citizens of the DPRK, and no infringements seemed to relate to forced labour. The Government further indicated that, in 2016 and 2017, no new visas had been issued to DPRK citizens. As of 1 January 2017, there were 400 citizens from DPRK in Poland with valid residence permits. The Committee also noted the Government’s information that a number of violations of provisions of the Act on the Promotion of Employment, as well as regulations in the scope of Labour Law were identified, such as the indirect payment of wages and confiscation of identification papers. The Committee requested the Government to strengthen its efforts to ensure that migrant workers, especially those from the DPRK, are fully protected from abusive practices and conditions that amount to the exaction of forced labour.

The Government indicates in its report that it has ceased to issue new temporary residence permits for paid activities to the DPRK nationals. Consequently, section 100, paragraph 1, point 4 of the Act on Foreigners of 2013 and section 88(j), paragraph 2 of the Act on the Promotion of Employment and on Labour Market Institutions have been amended by the Act of 20 July 2017, and have accordingly been supplemented with the provisions providing for an additional reason for refusing temporary residence. The Government further indicates that it is currently implementing the United Nations Security Council Resolution 2397 of 22 December 2017, which allows for the return of the DPRK employees to their own country to be accelerated. The Government has already withdrawn the majority of the temporary residence permits for paid activities issued to the DPRK nationals in Poland. The Government states that, in March 2019, no more than 19 DPRK nationals resided in Poland, so that the number of the DPRK employees in Poland has dropped by approximately 95 per cent.

Furthermore, in recent years, as a result of the alleged infringements of the rights of the DPRK nationals who work in Poland and of the increasing number of foreigners employed in the territory, the frequency of inspections has been increased. The Border Guard Service has applied special monitoring to businesses employing DPRK citizens. The Government indicates that the inspections carried out did not show any indications that the DPRK nationals experienced forced labour. The Government communicates statistical data collected by the Border Guard Service, indicating that in 2018, 12,108 foreigners were found to be working illegally and 155 DPRK nationals were identified during inspections, among which 11 have been illegally employed, namely without valid residence permits or work permits, or without employment contracts or civil law contracts. From 1 January to 31 May 2019, 4,255 foreigners were found to be working illegally and 88 DPRK nationals were identified during inspections, among which 58 have been illegally employed. Additionally, the Committee notes the Government’s information that labour inspectors detected a number of irregularities as a result of the inspections carried out in entities hiring foreigners, such as the failure to provide a foreigner with a contract translated into a language comprehensible to the foreigner before signature, or the failure to provide a foreigner with a copy of the work permit. The Border Guard Service also identified cases of non-payment of wages, or only partial payment thereof.

With regard to prevention measures, the Committee notes the Government’s indication that the national labour inspectorate launched education and information campaigns, intended to raise awareness both among employers hiring foreigners regarding their obligations, and among foreigners working in Poland, regarding their rights. A hotline was made available to foreigners at the National Labour Inspectorate Consultancy Centre in February 2018, in order to increase understanding of the legislation on the employment of foreigners in Poland, in the Ukrainian and Russian languages. Over 3,400 foreigners have so far contacted the experts for advice, including Ukrainians, Belarusians, Georgians, Moldovans and Russians.

The Committee notes that, in its concluding observations of August 2019, the UN Committee against Torture reported that, despite the fact that a recent case was opened in Poland, involving 107 nationals of the DPRK, investigations appear to be ineffective and to lack impartiality, particularly with regard to interpreting services and formal proceedings for those investigated. ***While taking note of the measures taken by the Government, the Committee urges the Government to strengthen its efforts to prevent foreign migrants from falling victim to abusive practices and conditions that amount to the exaction of forced labour and to ensure their access to justice and remedies. The Committee also requests the Government to continue to supply information on the number of identified victims of abusive practices among migrant workers, and on the number of investigations, prosecutions and penalties imposed on the perpetrators.***

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

## Qatar

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1998)**

*Articles 1(1), 2(1) and 25 of the Convention. Vulnerable situation of migrant workers to conditions of forced labour. Background and context.* The Committee previously noted that at the 103rd Session of the International Labour Conference (ILC) in June 2014, 12 delegates to the ILC, under article 26 of the International Labour Organisation (ILO) Constitution filed a complaint against the Government of Qatar relating to the violation of the Forced Labour Convention, 1930 (No. 29) and the Labour Inspection Convention, 1947 (No. 81). It also noted the discussions which took place at the 104th Session of the Conference Committee on the Application of Standards (CAS) in June 2015, concerning the application by Qatar of the Convention. The Committee further noted that at its 331st Session (October–November 2017), the Governing Body decided to close the complaint against the Government of Qatar and support the technical cooperation programme between the Government of Qatar and the ILO and its implementation modalities. The technical cooperation programme is articulated around five pillars, including: improvement in payment of wages; enhanced labour inspection and occupational safety and health (OSH) systems; refinement of the contractual system that replaces the *kafala* system; improved labour recruitment procedures, increased prevention, protection and prosecution against forced labour; and promotion of the voice of workers.

1. *National legal framework for migrant workers.* In its previous comments, the Committee requested the Government to provide information on the following issues: (i) the functioning of the sponsorship system (*kafala*); (ii) the procedure for issuing exit visas; (iii) recruitment fees and contract substitution; (iv) passport confiscation; (v) the late payment and non-payment of wages; and (vi) migrant domestic workers.

(i) *Functioning of the sponsorship system (kafala).* In its earlier comments, the Committee noted that the recruitment of migrant workers and their employment were governed by Law No. 4 of 2009 regulating the sponsorship system. Under this system, migrant workers who have obtained a visa must have a sponsor (section 180). The law forbids workers to change employer, and the temporary transfer of the sponsorship is only possible if there is a pending lawsuit between the worker and the sponsor. The Committee also took note of Law No. 21 of 2015 which regulates the entry, exit and residence of migrant workers and which entered into force in December 2016. The Committee observed that the main new feature introduced by the Law of 2015 consisted of the fact that workers may change jobs without the employer's consent at the end of a contract of limited duration or after a period of five years if the contract is of unspecified duration (section 21(2)) without the employer's consent; whereas under the Law of 2009, the worker could not return to work in Qatar for two years in case the sponsor refused such transfer. However, it observed that the Law of 2015 did not seem to foresee termination by the expatriate worker before the expiry of the initial contract (that is with a notice period) without approval of the employer nor did it set out reasons and conditions for termination generally, other than in a few very specific cases. The Committee expressed the firm hope that new legislation would remove all the restrictions that prevent migrant workers from terminating their employment relationship in the event of abuse and would enable migrant workers to leave their employment at certain intervals or after having given reasonable notice during the duration of the contract and without the employer's permission.

Regarding the transfer of workers in abusive situations, the Committee notes that Law No. 21 of 2015 allows the Minister of Interior or its representative to approve the temporary transfer of a migrant worker to a new employer in cases involving lawsuits between a worker and his/her current employer, provided that the Ministry of Labour approves the transfer. The Committee notes the statistical information provided by the Government on the number of workers transferred to new employers from December 2016 to January 2019 which reached a total of 339,420 permanent transfers. It notes that the number of transfers based on abuse reached 2,309 in 2019. The Committee notes the Government's reference in its report to Minister of Interior Decree No. 25 of 2019 on the issuance of the executive regulations of Law No. 21 of 2015 regulating the entry, exit and residence of foreign nationals. The Committee further notes in the annual progress reports to the Governing Body on the ILO technical cooperation programme in Qatar (annual progress report) that the programme supported the drafting of amendments to Labour Law No. 14 of 2004 and Law No. 21 of 2015 regulating the entry and exit of expatriates and their residence with regard to termination of employment and the removal of the no-objection certificate so as to eliminate restrictions on workers' freedom of movement to change jobs (GB.337/INS/5 paragraph 18).

The Committee notes that amendments to Labour Law No. 14 of 2004 and Law No. 21 of 2015 to eliminate restrictions on workers' freedom of movement to change jobs were approved by the Council of Ministers in September 2019, and referred to the Shura Council for consideration. ***Welcoming this recent legislative development that will enable migrant workers to leave their employment after having given reasonable notice, the Committee trusts that the amendments will be adopted shortly by the Shura Council and requests the Government to provide information on their adoption and entry into force as well as on their application, including data on the number of employment transfers that have taken place, disaggregated on the basis of contracts of limited duration and contracts of unspecified duration and on the basis of gender.***

(ii) *Procedure for issuing exit visas.* The Committee previously noted that Law No. 4 of 2009 on Entry and Exit of Foreign Workers required migrant workers to obtain an exit permit signed by the sponsor in order to leave the country. It subsequently noted the adoption of Law No. 21 of 2015 on Entry and Exit of Foreign Workers which removed the obligation to have the exit permit signed by the sponsor to leave the country. Law No. 21 nevertheless provided that the employer may

object to the departure from the country of the expatriate worker in which case the latter had the right to appeal to an Appeals Committee (section 7(2) and (3)). The Committee further observed that the Law did not enumerate the specific grounds on which the employer may object to the departure of the migrant worker from the country. The Committee requested the Government to take the necessary measures to remove the obstacles that limit the freedom of movement of migrant workers.

The Committee notes with *satisfaction* the adoption of Law No. 13 of 2018 which amends section 7 of Law No. 21 and suppresses the exit permit requirement for migrant workers covered by Labour Law No. 14 of 2004. The Committee notes, however, that this new Law specifies that employers may submit for approval to the Ministry of Administrative Development, Labour and Social Affairs (MADLSA) a list of workers for whom a “no-objection certificate” would still be required, with a justification based on the nature of their work. Positions in which exit permits may be required are limited to the following highly-skilled workers: chief executive officers, finance officers, managers responsible for the oversight of the company’s day-to-day operations and directors of ICT. The number of these workers per company shall not exceed 5 per cent of their workforce. As of May 2019, the number of companies that requested an exception up to a maximum of 5 per cent of the workforce was 12,430 companies, while the number of workers was 38,038. Given that Law No. 13 does not cover categories of workers outside of the scope of the Labour Law, the Committee notes that a Ministerial Decision is to be adopted before the end of 2019 to suppress the exit permit for all workers not covered by the Labour Law, notably domestic workers, workers in government and public institutions, workers employed at sea and in agriculture, as well as casual workers. ***The Committee trusts that the Ministerial Decision to be adopted by the end of 2019, which extends the coverage of Law No. 13 of 2018 thereby removing the requirement to obtain exit permits for all migrant workers, will be adopted in the very near future. It requests the Government to provide information on developments in this regard.***

(iii) *Recruitment fees and contract substitution.* The Committee previously encouraged the Government to ensure that recruitment fees are not charged to migrant workers. It also requested the Government to ensure that contracts signed in sending countries are not altered in Qatar. The Committee notes the Government’s indication that amendments to section 33 of Labour Law No. 14 of 2004 provide that: “A licensee shall be prohibited from recruiting workers from abroad on behalf of third parties and from receiving any money for recruiting workers in the form of payment, recruitment fees or other costs”. The Government underlines that this provision has been added to the basic contracts signed by all migrant workers in order to clarify to employers and workers that the Qatari law prohibits employers from imposing any recruitment fees. The Committee further notes that the work of recruitment agencies is regulated by Ministerial Decree No. 8 of 2005 which ensures that recruitment is carried out by licensed companies and respects all workers’ rights. There are currently 349 recruitment agencies that have a valid license under this system. Moreover, Decree No. 8 holds recruitment agencies in the country responsible for selecting recruitment agencies in the country of origin that comply with the law. To this end, 36 bilateral agreements and 13 memoranda of understanding have been signed with workers’ countries of origin in order to provide legal protection for them prior to their employment. According to the Government, the MADLSA follows up on the work of the labour recruitment offices acting on behalf of a third party to recruit workers and inspects them periodically or without prior notice. The Government states that in 2019, 337 inspection visits have been carried out and four warnings have been issued.

The Committee also takes note of the establishment of the electronic contract models for migrant workers including migrant domestic workers. According to the Government, in 2018, the total number of electronic contracts approved by the MADLSA covered 389,810 workers registered in the system of electronic contract. Furthermore, the Committee notes the establishment of the Qatar Visa Centre in the labour-sending countries in which fingerprint and medical screening procedures are carried out before the worker arrives in Qatar and the contract is signed electronically. The signing of the contract electronically by a worker allows him/her to read the contract in his/her native language, giving him/her a better chance to understand the contract and negotiate its terms if he/she is not satisfied with any of the terms included therein. The Committee notes that Visa Centres were opened in six labour-sending countries – Sri Lanka, Bangladesh, Pakistan, Nepal, India and the Philippines, with future plans to open Centres in Tunisia, Kenya and Ethiopia. All the services provided by the Centres are free and performed electronically, while the cost is borne by employers and paid through a bank transfer. Additionally, the Committee notes that in line with the ILO General Principles and Operational Guidelines for Fair Recruitment, a “Fair Employment Programme” is being implemented with the Government of Bangladesh, as a pilot project in the construction sector. ***The Committee requests the Government to continue to take measures to ensure that recruitment fees are not charged to workers, and to provide information on violations detected in this regard. Considering the establishment of the electronic contract system to be an important initiative which can contribute to reducing contract substitution, the Committee requests the Government to continue to provide information on the number of workers, including domestic workers registered in the electronic contract system.***

(iv) *Passport confiscation, late payment and non-payment of wages.* The Committee notes that section 8(3) of Law No. 21 of 2015 prohibits passport confiscation and any person who violates this provision shall be sentenced to a maximum fine of 25,000 Qatari riyals (QAR) (US\$6,800). According to the Government, the residency permit is now issued in a separate document and not included in passports. Ministerial Decree No. 18 of 2014 specifies the requirements and specifications of suitable accommodation for migrant workers, in a manner which enables migrant workers to keep their documents and personal belongings, including their passports. Surveys conducted in 2017 and 2018 by Qatar University’s Social and Economic Survey Research Institute (SESRI) showed that passport retention became less common among entities covered by the Labour Law.

Regarding the implementation of the wage protection system (WPS), the Government indicates that the number of companies registered in WPS was 80,913 and the percentage of workers whose salaries were transferred on time to their bank accounts increased to 92.3 per cent while the percentage of unpaid workers was at 7.7 per cent. The Committee notes with *interest* the establishment of the “Workers’ Support and Insurance Fund” which aims to guarantee the payment of workers’ entitlements that are determined by Labour Disputes Settlement Committees in the event of a company’s insolvency and if it is unable to pay wages in order to avoid actions that may take time and affect the ability of workers to fulfil their obligations towards their families or others. The Fund also aims to facilitate the procedures for return of migrant workers, including domestic workers to their country of origin. The Fund is currently working on a pilot and partial basis, and final regulations will be adopted with a view to ensuring the Fund’s full operation by the end of 2019. ***The Committee requests the Government to continue to provide information on the work achieved by the Workers’ Support and Insurance Fund in terms of enabling migrant workers to recover their entitlements.***

(v) *Migrant domestic workers.* In its previous comments, the Committee expressed the firm hope that the draft Bill on Domestic Workers will be adopted.

The Committee notes with *interest* the adoption of Law No. 15 of 2017 on migrant domestic workers as well as the model contract approved by the MADLSA in September 2017. It notes that migrant domestic workers shall be entitled to: a paid probationary period (section 6); a monthly wage paid at the end of the month (section 8); maximum hours of work not exceeding ten hours a day (section 12); and a paid weekly rest holiday that is not less than 24 consecutive hours (section 13). The Committee further notes that migrant domestic workers can terminate their employment contract before the end of its duration in a number of cases, including: (i) failure of the employers to meet their obligations specified in the provisions of this Law; (ii) provision of misleading information during the conclusion of the employment contract; (iii) physical violence from the employers or a member of their families; and (iv) in the event of a serious danger which threatens a worker’s safety or health, provided that an employer was cognizant of the danger.

The Committee also notes the statistical information provided by the Government on the number of convictions and fines imposed on employers of female domestic workers in 2018. It notes that 16 cases of violence were reported followed by 12 convictions of an average of one month of imprisonment. According to the Government, the MADLSA and the ILO will issue two manuals for domestic workers and employers of domestic workers, based on the projects of related organizations and the Migrant-Rights NGO. The Handbook on Domestic Workers will be printed in several languages and will provide information on the main provisions of Law No. 15 of 2017. The Handbook for Employers will be printed in Arabic and English and will also provide information based on the rights and responsibilities of employers as provided for in Law No. 15 of 2017. These manuals will be launched as part of a wider public awareness campaign on the rights and responsibilities of domestic workers and their employers in Qatar. ***The Committee requests the Government to continue to provide information on the application in practice of Law No. 15 of 2017, indicating the number and nature of complaints filed by migrant domestic workers and the outcome of such complaints, including the penalties applied.***

2. *Access to justice and law enforcement.* In its previous comments, the Committee requested the Government to provide information on: (i) access to the complaints mechanism; and (ii) monitoring mechanisms for infringements of the labour legislation and imposition of penalties.

(i) *Access to the complaints mechanism.* The Committee notes the Government’s indication that access to the complaints mechanism is free of charge and the related devices are available in 11 languages. The Committee further notes the establishment of the Labour Disputes Settlement Committees (Cabinet Resolution No. 6 of 2018) mandated to take decisions within a period not exceeding three weeks in all disputes related to the provisions of the law or the work contract. According to the Government, each worker or employer must submit, in case a dispute arises between them, the case first to the competent department of the Ministry (Labour Relations Department), which takes the necessary measures to settle the dispute amicably. The agreement is documented in the minutes of the dispute settlement meetings and has an executory force. If the dispute is not settled or the worker or employer refuse the settlement of the competent department, the dispute shall be referred to the Labour Disputes Settlement Committee. The decision of the Labour Disputes Settlement Committee may be appealed within 15 days from the issuance of the decision (if in presence of parties), or as of the day following the issuance of the decision (if its decision was in absentia), and the competent Court of Appeal shall consider the appeal rapidly, and take its decision within thirty days as of the date of its first hearing. The Committee further notes that a Protocol was agreed upon between the MADLSA and the ILO which allows workers to submit complaints using the facilitation of the ILO Office in Doha. It also notes that, based on that Protocol, the ILO has lodged 72 complaints for 1,870 workers, resulting in the conclusion of 43 cases (1,700 workers). The remaining cases are either on appeal, pending the outcome of criminal cases, or in process (GB.337/INS/5 paragraph 46). In 2018, the total number of workers submitting a complaint reached 49,894 and were mainly cases related to the late payment of wages, travel, tickets, end of service bonus and leave allowance. Out of these complaints, 5,045 cases were referred to the Labour Disputes Settlement Committees and 93 cases were settled. ***The Committee encourages the Government to pursue its efforts to facilitate access of migrant workers to the Labour Disputes Settlement Committees. Please continue to provide statistical information on the number of migrant workers who have had recourse to these Committees, the number and nature of the complaints as well as their outcome.***

(ii). *Monitoring mechanisms on the infringement of labour legislation and imposition of penalties.* The Committee notes the Government’s indication that the number of labour inspectors reached 270 dedicated to migrant worker-related

issues. *In this regard, the Committee refers the Government to its detailed comments under the Labour Inspection Convention, 1947 (No. 81).*

Regarding the applicable penalties, the Committee notes the Government's indication that section 322 of the Penal Code No. 11 of 2004 stipulates that: "Whoever forcibly obliges somebody to work with or without a salary shall be liable to imprisonment of a term of up to six months and a fine not exceeding QAR3,000 (US\$826), or one of these two penalties". The number of criminal reports issued because of non-payment of wages during 2018, which were referred to the courts by the Office of Residence Affairs, reached 1,164 cases.

During 2015, the Human Rights Department of the Ministry of Interior received 168 complaints related to passport retention, all of which were referred to the Public Prosecution. The majority of the complaints have been investigated into, and the persons who were found to be in violation were forced to return the passports, and several arrest warrants were issued. 232 cases of passport confiscation were referred to the Public Prosecution in 2016 and 169 cases were referred to the Public Prosecution in 2017. In 2018, two cases of passport confiscation were reported and the average fine ranging from QAR5,000 to QAR20,000 (US\$1,300 to US\$5,000) was imposed on the two defendants. The Committee observes, however, that the penalties imposed consist only of fines. The Committee reminds the Government that, by virtue of *Article 25* of the Convention, the exaction of forced or compulsory labour shall be punishable as a *penal* offence, and the penalties imposed by law shall be really adequate and are strictly enforced. ***Underlining once again the importance of effective and dissuasive penalties being applied in practice to those who impose forced labour practices, the Committee urges the Government to ensure that thorough investigations and prosecutions of those suspected of exploitation are carried out and that in accordance with Article 25 of the Convention, effective and dissuasive penalties are actually applied to persons who impose forced labour on migrant workers, especially the most vulnerable migrant workers. The Committee requests the Government to continue to provide information on the judicial proceedings instigated as well as the number of judgments handed down in this regard. It also requests the Government to provide concrete information on the actual penalties applied, indicating the number of cases in which fines were imposed, the number of cases in which sentences of imprisonment were imposed as well as the time served.***

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 2007)**

*Article 1(a) of the Convention. Penalties involving compulsory labour 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 sentences of imprisonment (involving compulsory labour, by virtue of section 62 of the Penal Code and sections 6 and 7 of Decree No. 11 of 2012 on penitentiaries and reformatories) may be imposed under certain provisions of the national legislation in circumstances which are covered by *Article 1(a)* of the Convention, namely:

- section 115 of the Penal Code, which prohibits the dissemination of information or false statements on the country's domestic situation which damage the economy, the prestige of the State or national interests;
- section 134 of the Penal Code, which prohibits any open criticism or defamation of the Prince or his heir;
- sections 35 and 43 of Act No. 12 of 2004 concerning associations, which prohibit the creation of political associations and provide for a sentence of imprisonment of between one month and one year for any person who carries out an activity contrary to the purpose for which an association was created;
- section 46 of Act No. 8 of 1979 on publications, which prohibits any criticism of the Prince or his heir, and section 47 of the same Act, which prohibits the publication of any defamatory documents on the president of an Arab or Muslim country or a friendly country, as well as documents prejudicial to the national currency or raising confusion concerning the economic situation of the country; and
- sections 15 and 17 of Act No. 18 of 2004 on public meetings and demonstrations, which prohibit public assembly without prior authorization.

The Committee requested the Government to take the necessary measures to bring the above-mentioned provisions into conformity with the Convention.

The Committee notes the Government's indication in its report that, the amendment of sections 115 and 134 of the Penal Code is still under consideration and examination, and that the above-mentioned provisions of Act No. 12 of 2004, Act No. 18 of 2004 and Act No. 8 of 1979 will be considered and examined in order to bring them into conformity with the Convention.

The Committee recalls once again that *Article 1(a)* prohibits the use of forced or compulsory labour, including compulsory prison labour, as a punishment for holding or expressing political views. The range of activities which must be protected, under this provision, from punishment involving forced or compulsory labour thus 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 and which may also be affected by measures of political coercion (2012 General Survey on the fundamental Conventions, paragraph 302). ***The Committee therefore requests the Government to take the necessary measures to amend the above-mentioned provisions either by repealing them, by limiting their scope to acts of violence or incitement to violence, or by replacing sanctions involving compulsory prison***

*labour with other kinds of sanctions (e.g. fines), in order to ensure that no form of compulsory labour, including compulsory prison labour may be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. The Committee also requests the Government to provide information on the progress made in this regard. Pending the adoption of such measures, the Committee requests the Government to provide information on the application in practice of the above-mentioned provisions, including copies of relevant court decisions.*

## Rwanda

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1962)**

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. Prison sentences involving compulsory labour imposed as a punishment for expressing political views.* The Committee previously noted that, according to section 50(8) of Law No. 34/2010 of 12 November 2010 on the establishment, functioning and organization of Rwanda Correctional Service, an incarcerated person has the main obligation, inter alia, to perform activities for the development of the country, himself/herself and the prison. The Committee further took note of the Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association who conducted an official visit to Rwanda in January 2014 (A/HRC/26/29/Add.2). The Special Rapporteur noted with concern the Government's prevailing hostility towards peaceful initiatives by its critics and the existence of a legal framework that silences dissent. In this regard, the Special Rapporteur referred to several provisions of the Penal Code which provide for sanctions of imprisonment for persons expressing political views (sections 116, 136, 451, 462, 463, 468 and 469 of the Penal Code). Noting that any reference made to compulsory prison labour had been removed from the Penal Code, the Committee requested the Government to provide information on the measures taken in order to harmonize the Code of Penal Procedure with the Penal Code. The Committee also requested the Government to provide a copy of the draft Ministerial Order on the nature of income-generating activities which can be performed by prisoners.

The Committee notes the Government's information in its report that Law No. 30/2013 of 24 May 2013 relating to the Code of Penal Procedure has removed the reference to compulsory prison labour. However, the Committee notes that section 50(8) of Law No. 34/2010 remains valid, under which an incarcerated person can be obliged to work for the development of the country, himself/herself and the prison. The Government also considers sections 116, 136, 451, 462, 463, 468 and 469 of the Penal Code as compatible with the Convention without providing further explanation, and indicates that there are no court decisions in this regard. However, the Committee notes that the UN Human Rights Committee expressed its concern in its concluding observations on the fourth periodic report of Rwanda of 2 May 2016, at the prosecution of opposition politicians, journalists and human rights defenders as a means of discouraging them from freely expressing their opinions (CCPR/C/RWA/CO/4, paragraphs 39 and 40).

The Committee once again recalls that *Article 1(a)* of the Convention prohibits the use of compulsory labour, including compulsory prison labour, as a punishment for peacefully holding or expressing political views or views ideologically opposed to the established political, social or economic system. It once again draws the attention of the Government to the fact that the abovementioned sections of the Penal Code are worded in terms broad enough to lend themselves to the application as a means of punishment for peacefully expressing political views and, in so far as they are enforceable with sanctions of imprisonment which involve compulsory labour, they may fall within the scope of the Convention. The Committee further notes that the draft Ministerial Order on the nature of income-generating activities which can be performed by prisoners is not attached as indicated in the Government's report. **The Committee therefore requests the Government to ensure that no penal sanctions involving compulsory prison labour may be imposed on persons for peacefully expressing political views, for example, by amending section 50(8) of Law No. 34/2010 following the adoption of Law No. 30/2013. The Committee also requests the Government to provide information on the application of sections 116, 136, 451, 462, 463, 468 and 469 of the Penal Code in practice, including any legal proceedings defining or illustrating their scope. The Committee finally once again requests the Government to provide a copy of the draft Ministerial Order on the nature of income-generating activities which can be performed by prisoners.**

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

## Saudi Arabia

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1978)**

*Articles 1(1) and 2(1) of the Convention. Vulnerable situation of migrant workers to conditions of forced labour.*

1. *Migrant workers.* The Committee previously noted the observations of the International Trade Union Confederation (ITUC) that many migrant workers in the construction industry were subject to forced labour practices such as delayed payment of wages, passport confiscation and contract substitution. The Committee requested the Government to take the necessary measures to enable migrant workers to approach the competent authorities and seek redress; provide statistical information on the number of violations of the working conditions of migrant workers, and to indicate the penalties applied for such violations. It also requested the Government to indicate the measures taken to ensure that migrant workers who are victims of abuse receive appropriate assistance.

The Committee notes the Government's reference in its report to a number of implementing Regulations of the Labour Code that cover all workers, whether national or foreign workers. These include Regulation No. 70273 of 20 December 2018, which provides that the employer shall not retain the passport, residence permit or medical insurance card of a non-Saudi Arabian worker (section 6). Moreover, Decision No. 178743 of 31 May 2019, provides that an employer who forces a worker to work shall be liable to a fine of 15,000 Saudi riyals (SAR) (US\$4,000) for each worker concerned. An employer who retains the passport, residence permit or health insurance card of a worker and members of his family shall be liable to a fine of SAR5,000 (US\$1,300) for each worker concerned. Lastly, Decision No. 156309 of 24 April 2019 on the Contract

Registration Programme enables employers to access and update information on the employment contracts of private sector workers. This programme also allows workers to check the data in their contracts via the online services of the Social Insurance institution, which requires establishments to implement Decision No. 156309 in accordance with a specific schedule determined by the size of the establishment. Regarding the measures taken to enable migrant workers to approach the competent authorities, the Government also indicates that the Ministry of Labour set-up a hotline for labour issues, launched a labour advisory service, and established departments for the amicable settlement of labour disputes in labour offices to receive complaints as a procedure prior to filing a labour claim. The hotline responded to 1,601,258 communications in 2018. According to the Government, the Public Security agencies are the bodies in charge of receiving complaints and reports of offences. Moreover, the Public Prosecutor is competent to investigate offences and to decide whether to institute proceedings or close a case in accordance with the regulations and to bring prosecutions before the judicial authorities in accordance with the regulations, within the scope of its competence. The Government also refers to a number of regulatory adjustments, including the insertion of new sections Nos 234 and 235 to the Labour Code providing for the expeditious of labour dispute settlement procedures. The Committee notes that the number of violations recorded during the first quarter of 2019 was 85,538 cases, including 12,585 cases of failure by the employer to provide healthcare and treatment; 4,625 cases of workers being employed without a written employment contract; and 812 cases of absence of wage payment. For cases of non-payment of wages a fine was applied ranging from SAR10,000 to SAR5,000 (US\$2,600–1,300). The Government finally states that 12 shelters have been established, providing psychological, legal and labour-related services to beneficiaries, staffed by 120 employees including expert psychologists. With regard to medical services, public sector workers benefit from services under the mandatory health insurance system. ***The Committee urges the Government to continue to strengthen its legal and institutional framework to ensure that, in practice, migrant workers are not exposed to practices that might increase their vulnerability to practices amounting to forced labour, including passport retention and non-payment of wages. The Committee also requests the Government to strengthen the capacity of the labour inspectors and law enforcement bodies to allow better identification and monitoring of the working conditions of migrant workers, and to ensure that penalties are effectively applied for any violations detected. It further requests the Government to continue to provide statistical information on the number and nature of violations of the working conditions of migrant workers that have been recently detected and registered by the labour inspectors, and to indicate the penalties applied for such violations. Lastly, the Committee requests the Government to continue providing information on the measures taken to ensure that migrant workers who are victims of abuse receive psychological, social, medical and legal assistance as well as the number of persons benefiting from this assistance.***

2. *Migrant domestic workers.* The Committee previously noted the ITUC's observations that, although covered by Ministerial Decision No. 310 of 2013, migrant domestic workers do not enjoy the same rights as other workers in Saudi Arabia. For example, daily working time is 15 hours under the Regulation, whereas working time for other workers is limited to eight hours per day. The Committee urged the Government to take the necessary measures, in law and in practice, to ensure that migrant domestic workers are fully protected from abusive practices and conditions that amount to the exaction of forced labour.

The Committee notes the Government's indication that Ministerial Decision No. 61842 of 2017 on the Unified Employment Contract, requires the employer: (i) to issue a salary slip for domestic workers and persons of similar status for every domestic worker through the banks offering this service; (ii) to register the employment contract of domestic workers and persons of similar status electronically through *Musaned*, the platform for domestic workers. Moreover, two domestic labour dispute settlement committees have been established in the Riyadh shelter to provide legal and labour-related services. In 2018, the committees for the settlement of domestic workers' disputes completed 21,409 cases (labour cases) filed by domestic workers and 439 domestic workers were transferred to the shelter in Riyadh. With regard to medical services, the Government further states that domestic workers are treated free of charge in public hospitals.

The Committee further notes that in its 2018 concluding observations the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern about the situation of migrant domestic workers who continue to be subjected to economic and physical abuse and exploitation, the confiscation of passports by employers and the de facto persistence of the *kafala* system, which further increases their risk of exploitation and makes it difficult for them to change employers, even in cases of abuse (CEDAW/C/SAU/CO/3–4, paragraph 37). ***The Committee urges the Government to strengthen the measures taken above to ensure that in practice, migrant domestic workers can approach the competent authorities and seek redress in the event of a violation of their rights or abuses, without fear of retaliation. In this regard, please provide statistical information on the number of migrant domestic workers who had recourse to complaints mechanisms and the results achieved. Lastly, the Committee requests the Government to provide statistical information on the number of migrant domestic workers who have received assistance in the case of abusive working conditions.***

3. *Sponsorship system (kafala).* The Committee previously noted the ITUC's observations that migrant workers have to obtain permission from their employers/sponsors to transfer employer as well as an exit visa to leave the country. The Committee requested the Government to provide information on the conditions and the length of the procedure for changing an employer, and to provide statistical information on the number of transfers that have occurred recently.

The Committee notes once again the Government's indication that Chapter 3 of the Labour Code specifies the circumstances in which the employment contract may be terminated and the conditions relating to periods of notice and

compensation in the event that one of the parties wishes to terminate the contract. It also specifies the circumstances under which workers are entitled to leave their jobs without notice while retaining their full statutory rights. Section 14 of the implementing regulations of the Labour Code promulgated in Ministerial Decision No. 70273 of 20 December 2018, provide that migrant workers may terminate the contract with the employer and work for another employer. In addition, migrant workers may terminate the contract on condition that the workers give the employer 60 days' notice in advance of the expiration date that they do not wish to renew the contract and, also, to state whether they wish to remain in the country and transfer to another employer or leave the country definitively. All services relating to a change of employer are carried out electronically. With regard to migrant domestic workers, the Committee notes that they are covered by Regulation No. 310 of 2014 and the Standard Employment Contract. Migrant domestic workers may terminate the employment contract by giving a written notice of 30 days. Moreover, under Ministerial Decision No. 605 of 12 February 2017, on the procedures for the transfer of migrant domestic workers, migrant domestic workers may transfer to a new employer without the employer's consent for a number of reasons, including for non-payment of wages for three consecutive or isolated months. Lastly, the Committee notes the Government's indication that the entry and exit of non-nationals to and from Saudi Arabia is governed by the Residence Act and the procedures contained therein.

While noting that Ministerial Decision No. 70273 of 20 December 2018 and Ministerial Decision No. 605 of 12 February 2017 allow migrant workers and migrant domestic workers respectively to transfer employer provided a notice period is given, nevertheless the Committee observes that both are obliged to obtain permission from the employer/sponsor to leave the country (pursuant to Saudi Arabian Residence Regulations, Law No. 17/2/25/1337 of June 1959). The Committee recalls that by restricting the possibility for migrant workers to leave the country, victims of abusive practices are prevented from freeing themselves from such situations. *The Committee requests the Government to indicate the manner in which migrant workers can leave the country if they have not obtained the exit visa issued by the employer/sponsor, indicating the criteria on the grounds for which the employer may object to a worker's departure from the country. The Committee also requests the Government to provide statistical information on the number of employee departures from the country without an exit visa. The Committee further requests the Government to provide information on the conditions and the length of the procedure for changing an employer under the sponsorship system, and to provide statistical information on the number of transfers that have occurred since the entry into force of Ministerial Decisions Nos 70273 and 605.*

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

## Senegal

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1960)**

*Articles 1(1) and 2(1) of the Convention. Trafficking in persons.* In reply to the Committee's comments, the Government indicates in its report that the labour inspectorate and the labour courts see virtually no cases of forced or compulsory labour, let alone trafficking in persons of which workers are victims. In its report presented on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), the Government also indicates that the National Anti-Trafficking Unit regularly involves law enforcement officials in its training programmes on trafficking in persons and smuggling of migrants, and that trafficking in persons in all its forms is severely punished under the law. Between 2013 and 2018, the budget of the National Anti-Trafficking Unit was increased from 20 million to 85 million CFA francs and its staff was reinforced. An electronic data collection system, known as SYSTRAITE, has been in place since 2016 and members of the judiciary have gained knowledge of it through training. The Committee further notes that, according to information available on the website of the United Nations Office on Drugs and Crime, for several years, the phenomenon of forced prostitution has been on the rise in the south-eastern Kédougou region of Senegal. Hundreds of young women from all over the region are victims of trafficking. The traffickers promise them jobs as models, hairdressers and restaurant or domestic workers. Most of them have their travel documents confiscated and are then forced into prostitution on behalf of traffickers in order to reimburse the so-called travel expenses. In this regard, the Committee notes that, in its report of 31 July 2019 presented to the UN Committee on the Elimination of Discrimination against Women, the Government indicates that awareness-raising activities have been organized with the support of partners, particularly in the gold panning sites where trafficking for sexual exploitation purposes takes place (Kédougou Region). The annual report of the National Anti-Trafficking Unit, submitted to the Prime Minister on 25 January 2018, summarizes the situation of trafficking in Senegal and comprises recommendations on policies to be implemented. The National Anti-Trafficking Unit also commissioned a study on trafficking in persons through domestic servitude, as well as a study to review the specific normative framework on trafficking in persons, conduct a documentary review of trafficking in persons, migrant smuggling and victim protection, analyse data on the phenomenon and formulate recommendations. The latter proposes a new law that incorporates the definition of article 3 of the Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. As for the SYSTRAITE data collection system, the experimental phase covers judicial proceedings and will be tested in five pilot regions in 2019 (see CEDAW/C/SEN/8, paragraphs 74 and 77–79). The Committee also notes that, in its national report submitted to the UN Human Rights Council of 30 August 2018, the Government indicates that Senegal is now implementing its third two-year action plan to combat trafficking in persons, covering the period 2018–2020. Capacity-building for the judiciary and other officials continues and the number of specialized justice officials is growing (see A/HRC/WG.6/31/SEN/1, paragraphs 38–40). The Committee also notes that, in its most recent concluding

observations, the UN Human Rights Committee expressed concern at the extremely limited number of prosecutions and convictions under Act No. 2005-06, of 10 May 2005, on combating trafficking in persons and similar practices, particularly the exploitation of women and children (CCPR/C/SEN/CO/5, 7 November 2019, paragraph 30). *The Committee therefore urges the Government to increase its efforts and to take measures with a view to ending, preventing and combating trafficking in persons for both sexual and labour exploitation. Furthermore, the Committee encourages the Government to continue its efforts to strengthen the capacity of the law enforcement bodies, including the labour inspectorate, in order to enable them to better understand and identify practices of trafficking in persons for purposes of sexual and labour exploitation and to prosecute the perpetrators. The Committee requests the Government to communicate information on the measures taken to coordinate their efforts and the results achieved so that traffickers are effectively prosecuted and victims can receive adequate protection and assistance to assert their rights and reintegrate. Please also indicate the number of legal proceedings initiated and, if applicable, a copy of any court decisions handed down, and the penalties imposed. Noting that the study commissioned by the National Anti-Trafficking Unit proposes a new law on trafficking in persons, the Committee requests the Government to provide information on any legislative changes that have occurred. The Committee also requests the Government to provide a copy of the action plan to combat trafficking in persons and information on its implementation, as well as a copy of the most recent annual report of the National Anti-Trafficking Unit on the results achieved in this regard.*

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

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1961)**

*Article 1(c) of the Convention. Imposition of sentences of imprisonment involving an obligation to work for breaches of labour discipline.* The Committee previously emphasized the need to amend sections 624, 643 and 645 of the Merchant Shipping Code (Act No. 2002-22 of 16 August 2002). Under the terms of these provisions, unapproved absence from the vessel, verbal insults, gestures or threats towards a superior, or a formal refusal to obey a service order are punishable by imprisonment, which involves compulsory prison labour in accordance with section 692 of the Code of Penal Procedure and section 32 of Decree No. 2001-362 of 4 May 2001 on the execution and organization of penal sanctions. In view of the fact that the scope of the above-mentioned provisions of the Merchant Shipping Code is not confined to cases in which the breach of discipline would endanger the ship or the life or health of persons on board, the Committee has considered them to be contrary to the Convention, which prohibits recourse to forced labour, including in the form of compulsory prison labour, as a means of labour discipline. The Government indicates in its report that, in general, fines have always been preferred for breaches of discipline, even though the Merchant Shipping Code leaves the choice of whether to impose a fine or a custodial sentence to the judge. The Committee notes that since the Code is currently being revised, the Government will ensure that the definitive version takes into account all of the international obligations of Senegal in this regard. The Committee notes with *deep concern* that it has been commenting on this matter for more than 40 years, and that the Government did not take the opportunity presented by the adoption of the new Merchant Shipping Code in 2002 to bring its legislation into line with practice and with the Convention. *The Committee therefore calls upon the Government to be in compliance with the Convention and expects that the necessary measures will finally be taken to amend articles 624, 643 and 645 of the Merchant Shipping Code so that breaches of labour discipline that do not endanger the ship or the persons on board cannot be punished with prison sentences, under which prison labour may be imposed.*

*Article 1(d). Imposition of sentences of imprisonment involving an obligation to work as punishment for participation in strikes.* In its previous comments, the Committee referred to section L.276 of the Labour Code (under Title 13 on labour disputes), which allows the administrative authority to requisition workers from private enterprises and public services and establishments who are engaged in jobs that are essential for the security of persons and property, the maintenance of public order, the continuity of public services and the satisfaction of the essential needs of the nation. Any worker who does not comply with the requisition order is liable to a fine or imprisonment of three months to one year or both these penalties (section L.279(m)). The Committee noted that the Decree implementing section L.276, which was to establish the list of jobs concerned, was in the process of being adopted and that, in the meantime, Decree No. 72-017 of 11 March 1972 establishing the list of posts, jobs and functions of which the occupants may be requisitioned continued to be applicable. With reference to the comments made on the application of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Committee observed that, pursuant to these provisions, the power to requisition workers may be exercised in respect of workers whose post, job or functions do not constitute essential services in the strict sense of the term, and that workers who do not comply with a requisition order are liable to imprisonment involving the obligation to work.

The Committee notes with *regret* that the Decree to implement section L.276, which only authorizes the requisitioning of workers to ensure the operation of essential services in the strict sense of the term, has still not been adopted. Reaffirming that appropriate measures will be taken to comply with the Convention and that the use of requisitioning remains extremely rare in practice, the Government indicates in its report that despite the delay in the adoption of the new Decree to implement section L.276 of the Labour Code, the right to strike will be fully guaranteed to all workers, in accordance with the law, and that those who legally exercise that right do not risk any criminal proceedings. In this regard, the Committee wishes to recall that in all cases and regardless of the legality of the strike action in question, any penalties imposed should be proportionate to the seriousness of the offence, and that the authorities should not have recourse to measures of imprisonment against persons peacefully organizing or participating in a strike. *The Committee urges the Government to take the necessary*

*measures to ensure that the Decree implementing section L.276 of the Labour Code is adopted as soon as possible and that workers who do not comply with a requisition order are not liable to imprisonment involving the obligation to work. The Committee expresses the firm hope that the above-mentioned Decree will limit the list of posts, jobs or functions of which the occupants may be subject to a requisition order to posts, jobs or functions that are strictly necessary to ensure the operation of essential services in the strict sense of the term.*

The Committee also previously emphasized the need to amend the last paragraph of section L.276 of the Labour Code, under which the exercise of the right to strike may not be accompanied by the occupation of the workplace or its immediate surroundings, otherwise the penalties set out in sections L.275 and L.279 will apply (in the latter case, imprisonment of three months to one year or a fine or both). *The Committee requests the Government to take the necessary measures to amend the last paragraph of section L.276 and section L.279 of the Labour Code, in order to ensure that striking workers who peacefully occupy the workplace or its immediate surroundings are not liable to imprisonment during which prison labour may be imposed.*

## Sierra Leone

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1961)**

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 2020, 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) and 2(1) of the Convention. Compulsory agricultural work.* For many years, the Committee has been referring to section 8(h) of the Chiefdom Councils Act (Cap. 61), under which compulsory cultivation may be imposed on "natives". On numerous occasions, the Government indicated that this legislation would be amended. The Government also indicated that section 8(h) of the Act was not applied in practice and, as it was not in conformity with article 9 of the Constitution, it was unenforceable.

The Committee notes the Government's statement that, at the time of ratification, chiefs with administrative authority requested forced or communal labour from their communities, but that measures have been taken to address these occurrences, including through the establishment of the Human Rights Commission of Sierra Leone. Nonetheless, the Government states that, despite the prohibition on forced or compulsory labour, minor violations do occur. In this regard, the Government indicates that a report was filed with the Human Rights Commission relating to the undertaking of communal work by a village. *Noting that the Government had previously indicated its intention to amend this Act, the Committee urges the Government to take the necessary measures to repeal section 8(h) of the Chiefdom Councils Act, to bring it into conformity with the Convention. It requests the Government to continue to provide information on the application of this Act in practice with regard to the exaction of compulsory labour, including information on the reports filed in this respect with the Human Rights Commission.*

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

## Sri Lanka

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1950)**

*Articles 1(1), 2(1) and 25 of the Convention. I. Trafficking in persons. 1. Penalties and law enforcement.* The Committee previously noted the Government's statement that, in 2016–17, the high courts had handed down six convictions of trafficking in persons, and the perpetrators had received penalties of imprisonment from six months to five years, along with fines. The Committee also noted the Government's information that, in October 2016, the police department established the "Anti-Human Trafficking Unit" comprising 13 police officers to investigate cases on trafficking in persons. A special unit was also established under the Sri Lanka Bureau of Foreign Employment (SLBFE) to investigate trafficking-related complaints reported to it. The Committee requested the Government to continue its efforts to ensure thorough investigations, prosecutions and sufficiently effective and dissuasive penalties with regard to perpetrators of trafficking in persons.

The Government indicates in its report that the statistics of reported trafficking in persons cases have dropped significantly, indicating a very low prevalence of trafficking in persons related cases. It states that between April 2018 and March 2019, 18 cases of trafficking in persons have been investigated, ten indictments have been filed in court, and five convictions were handed down, under sections 360A (procuring of persons) or 360C (trafficking in persons) of the Penal Code. Between April 2017 and March 2018, 16 cases of trafficking have been investigated, 28 indictments have been filed in court and three convictions were handed down under section 360A of the Penal Code. The Government further indicates that, in 2019, two persons were convicted under section 360C of the Penal Code and sentenced to two years of rigorous imprisonment, suspended for seven and ten years, respectively. The Committee recalls that, in light of the seriousness of the violation, it is essential that penalties imposed on perpetrators of offences of trafficking in persons are severe enough to fulfil their dissuasive function. *The Committee requests the Government to continue its efforts to ensure that perpetrators of trafficking in persons are prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice, and to specify the penalties applied. It also requests the Government to provide information on any cooperation initiatives in practice between law enforcement authorities, including the Anti-Human Trafficking Unit and the special unit established under the SLBFE.*

2. *Identification and protection of victims.* The Committee previously noted that legal, medical and psychological assistance for trafficking victims was provided in a shelter maintained by the Ministry of Women and Child Affairs. The Committee encouraged the Government to continue to take measures to ensure that victims of trafficking were provided with appropriate protection and services, and to provide information on the number of persons benefiting from these services.

The Committee notes the Government's information that the government-run shelter, established for both foreign and local victims of trafficking, hires specially trained officers. It also notes the Government's indication that Standard Operating Procedures (SOPs) for the identification, protection and referral of victims of trafficking have been approved, in order to ensure the identification of victims of trafficking among vulnerable groups, including foreigners detained for visa overstays, women arrested for prostitution and related crimes, and Sri Lankans who find themselves victims of trafficking and exploitation whilst working regularly or irregularly overseas. ***The Committee requests the Government to pursue its efforts to ensure that victims of trafficking are effectively protected and assisted, and to provide information on the impact of the SOPs on the identification, referral and protection of victims of trafficking in persons. The Committee also requests the Government to provide information on the number of victims of trafficking identified, as well as the number of those who received the services provided by the above-mentioned shelter.***

3. *Programme of action and coordinating body.* The Committee previously noted that the National Strategy Plan to Monitor and Combat Human Trafficking 2015–19 had been adopted in February 2016 and that a high-level committee chaired by the Prime Minister and the National Anti-Human Trafficking Task Force monitored the implementation of the Strategic Plan. It requested the Government to provide information on the implementation of this Plan.

The Committee notes the absence of information on this subject in the Government's report. It notes the Government's indication, in its report to the UN Human Rights Committee of April 2019, that the National Anti-Human Trafficking Task Force aims to strengthen coordination among key government stakeholders, increase prosecutions and improve the protection of victims. The National Anti-Human Trafficking Task Force is the national coordinating body to advise and monitor activities to be implemented in combating trafficking in persons in Sri Lanka (CCPR/C/LKA/6, paragraph 107). ***The Committee encourages the Government to pursue its efforts to prevent and combat trafficking in persons and requests the Government to provide information on the activities carried out in this regard, including the results achieved within the framework of the National Strategy Plan to Monitor and Combat Human Trafficking 2015–19 and whether it has been renewed.***

II. *Vulnerable situation of migrant workers with regard to the exaction of forced labour.* The Committee previously noted that various measures had been taken by the Government to safeguard the rights of Sri Lankan migrant workers, including the implementation of programmes to raise awareness among migrant workers on their rights and obligations, the signing of 22 memorandums of understanding (MoU) with major labour host countries on the protection of rights of migrant workers, the compulsory registration scheme requiring registration prior to departure for foreign employment and the development of standard-approved contracts. The Committee also noted that the SLBFE managed a transit shelter which provided medical assistance and accommodation to migrant workers referred upon their return by the Bureau's airport desk. The Government further indicated that consular assistance was provided through diplomatic missions in 16 major destination countries and 11 temporary shelters for female migrant workers as victims of abuse or exploitation. The Committee requested the Government to continue its efforts to ensure that migrant workers were fully protected from abusive practices and conditions that amount to the exaction of forced labour.

The Committee notes the Government's indication that it has organized a pre-departure training programme for migrant workers, in particular to inform them of the existence of an SLBFE complaint handling mechanism, which helps Sri Lankan migrant workers to lodge their complaints when they are abroad. The Government also indicates that consular assistance has been maintained through diplomatic missions' temporary shelters. In this regard, the Committee notes that, in its report to the UN Committee on Economic, Social and Cultural Rights of August 2017, the Government stated that there were 12 temporary shelters ("safe houses") in ten countries for female migrant workers, which benefited 3,552 migrant workers (E/C.12/LKA/Q/5/Add.1, paragraph 74).

The Committee observes that, according to the Decent Work Country Programme (DWCP) 2018–22, in 2017, approximately 212,162 Sri Lankan migrated overseas for work, a decrease from 242,816 in the previous year, with the majority headed to the Middle East in low-skilled jobs. The DCWP indicates that factors such as exorbitant recruitment costs and fees for migrants have reportedly resulted in instances of debt bondage and exploitative labour practices. It also indicates that there are deficiencies in the implementation of the labour migration policy, which regulates the recruitment, in-service, return and reintegration of migrant workers, especially at the recruitment stage.

The Committee also takes note of the adoption of the National Action Plan for the Protection and Promotion of Human Rights 2017–21, which focuses on the protection of the rights of vulnerable communities, including migrant workers. It further notes that the Government has introduced a Sub Policy and National Action Plan on Return and Reintegration of Migrant Workers to protect the rights of migrant workers, in the framework of the Sri Lanka's labour migration policy. Furthermore, the Committee notes that, according to a report of December 2017 entitled "Labour migration, skills development and the future of work in the Gulf Cooperation Council (GCC) countries", the working conditions of Sri Lankan construction workers are improving so that the wage differential is less attractive (page 7). The Government is also investing on up/re-skilling programmes in construction, service and other hospitality industries to reduce the vulnerability

of migrant workers (page 12). *While taking due note of the measures undertaken by the Government, the Committee requests it to pursue its efforts to ensure that migrant workers are not exposed to practices that might increase their vulnerability to the exaction of forced labour, and to provide information on the results achieved in this regard, including within the framework of the National Action Plan for the Protection and Promotion of Human Rights 2017–21. The Committee also requests the Government to take the necessary measures to enhance the protection of migrant workers during the recruitment process by private recruitment agencies, and to provide information in this respect. Lastly, the Committee encourages the Government to pursue its efforts to sensitize migrant workers on their rights, including within the framework of the pre-departure training programme, and to provide information regarding the return and reintegration of migrant workers, especially within the framework of the Sub Policy and National Action Plan on Return and Reintegration of Migrant Workers.*

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

## Sudan

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1957)**

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

*Articles 1(1) and 2(1) of the Convention. Abolition of forced labour practices.* In its earlier comments, the Committee noted that in regions of the country where there was armed conflict, the abduction and forced labour of thousands of women and children had taken place. The Committee noted the allegations from the International Trade Union Confederation (ITUC) that there continued to be serious problems with regard to abductions for the purpose of forced labour, as well as compensation for victims of forced labour. The Committee also noted that in his 2013 report, the UN Independent Expert on the situation of human rights in the Sudan indicated that in the three areas of Abyei, South Kordofan and Blue Nile, outbreaks of fighting have led to widespread human rights violations and large-scale displacements. The Independent Expert pointed out that widespread human rights violations and large scale civilian displacements due to the persistence of fighting between the Sudanese Armed Forces (SAF) and armed opposition groups continued to occur in the region of Darfur (A/HRC/24/31, paragraphs 11 and 13). Moreover, the Committee noted the information from the Report of the Secretary-General on the African Union–United Nations Hybrid Operation in Darfur (UNAMID), of 14 October 2013, that between 1 April and 30 June 2013 there were 21 abductions in which the local civilian population was targeted, and ten such abductions between 1 July and 30 September 2013 (S/2013/607, paragraph 26). In this regard, the Committee requested the Government to take urgent measures, in accordance with the recommendations of the relevant international bodies and agencies, to put an end to all human rights violations and impunity.

The Committee notes the Government's indication in its report that no evidence has been found regarding cases of abductions. However, the Committee notes from the 2016 report of the UN Independent Expert on the situation of human rights in the Sudan, that during the reporting period (from October 2015 to June 2016), the security situation in Darfur was marked by an escalation in fighting between Government forces and the Sudan Liberation Movement–Abdul Wahid. The Independent Expert was concerned by the detrimental effects of the conflict on civilians in the light of allegations of human rights violations and serious violations of international humanitarian law, including indiscriminate killings, destruction and burning of villages, abduction of and sexual violence against women, as well as large-scale displacement of civilians. Moreover, during the first five months of 2016, around 80,000 people were reportedly newly displaced across Darfur. An additional 142,000 people were also reportedly displaced (A/HRC/33/65, paragraphs 41 and 42). *In light of the above, the Committee urges the Government to take the necessary measures to put an immediate stop to cases of abductions for the exaction of forced labour and to guarantee that the victims are fully protected from such abusive practices. The Committee also reiterates the need for the Government to take urgent measures, in accordance with the recommendations of the relevant international bodies and agencies, to put an end to all human rights violations and impunity, which would help to ensure the full observance of the Convention. Lastly, the Committee requests the Government to provide, in its next report, detailed information on measures taken in this regard.*

*Article 25. Penalties for the exaction of forced labour.* In its previous comments, the Committee noted that special courts were established in some conflict regions to eradicate any activity involving forced labour, and that a Special Prosecutor for Darfur crimes had been appointed. The Committee also noted that in his 2013 report, the Independent Expert raised concerns about the slow pace of prosecution of the Darfur conflict-related crimes (A/HRC/24/31, paragraph 43). The Committee requested the Government to indicate the number of prosecutions undertaken by the Special Prosecutor for Darfur which relate to abductions for the exaction of forced labour, as well as the number of convictions and the nature of penalties applied.

The Committee notes the Government's indication that with regard to the statistical information on the number of prosecutions undertaken by the Special Prosecutor for Darfur, none of the prosecutions were related to cases of abductions for forced labour. The Government also indicates that various institutions currently exist to facilitate access to justice to victims of human rights violations, including the National Human Right Commission and the High Council for Children. *Recalling the importance of imposing appropriate criminal penalties on perpetrators so that recourse to forced labour practices does not go unpunished, the Committee requests the Government to take immediate and effective measures in this regard. The Committee also requests the Government to provide statistical information on the number of prosecutions undertaken by the Special Prosecutor for Darfur which relate to abductions for the exaction of forced labour, as well as the number of convictions and the specific penalties applied.*

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: 1970)**

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. Punishment for expressing political views or views ideologically opposed to the established political, social or economic system.* In its earlier comments, the Committee noted that penalties of imprisonment (involving an obligation to perform prison labour) could be imposed by virtue of sections 50, 66 and 69 of the Criminal Act (committing an act with the intention of destabilizing the constitutional system, publication of false news with the intention of harming the prestige of the State and committing an act intended to disturb public peace and tranquility). The Committee also noted that the 2013 report of the United Nations Independent Expert on the situation of human rights in the Sudan indicated that parts of the national legal framework, including the Criminal Act, infringe fundamental human rights and freedoms, and that restrictions on civil and political rights and the curtailment of freedom of expression and the press persist (A/HRC/24/31, paragraph 13). According to the Independent Expert, a committee had been set up to study the reform of some laws, including the Criminal Procedure Act and the Criminal Act. This Committee had submitted its recommendations to the Government for consideration (paragraph 18). The Committee had requested the Government to take the necessary measures to ensure that sections 50, 66 and 69 of the Criminal Code are repealed or amended.

The Committee notes the Government's indication in its report that the right to freedom of peaceful assembly and freedom of expression and peaceful protest are universally guaranteed rights, but their exercise is subject to restrictions in accordance with the national legislation and the obligations of the State under international human rights Conventions. Nevertheless, the Committee notes that in its 2014 concluding observations, the UN Human Rights Committee (HRC) was concerned by the numerous allegations indicating that State officials have curtailed the full and effective enjoyment of the right to freedom of expression by, inter alia, closing newspapers without court orders, confiscating entire newspaper editions and subjecting journalists to intimidation and harassment. The HRC was also concerned about the obligations placed on journalists by the 2009 Press and Publication Act and about prosecutions for disseminating "false news". Lastly, the HRC was also concerned at allegations indicating that State Officials have subjected opponents and perceived opponents of the Government, human rights defenders and other activists to harassment, intimidations, arbitrary arrest and detention, and torture and ill treatment (CCPR/C/SDN/CO/4, paragraph 21).

In addition, the Committee notes that in his 2016 report, the Independent Expert on the situation of human rights in the Sudan highlighted that the National Security Act and the Criminal Act of 1991, and parallel legislation specific to Darfur, such as the emergency laws, continue to infringe on fundamental rights and freedoms. Moreover, restrictions on civil and political rights and the curtailment of the rights to freedom of expression, association and peaceful assembly, as well as freedom of the press have persisted. Increasing demands by political opposition groups, civil society organizations and students for democratic reforms have been met with repressive measures by the Sudanese authorities, including arrests and detention. Human rights defenders, political opponents and journalists continue to be targeted and impunity remains a recurring problem (A/HRC/33/65, paragraph 63).

The Committee once again recalls that *Article 1(a)* of the Convention prohibits all recourse to compulsory labour, including compulsory prison labour, as a means of political coercion or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. It also points out that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are protected by the Convention, as long as they do not resort to or call for violent means to these ends. **Therefore, the Committee once again urges the Government to take the necessary measures to ensure that sections 50, 66 and 69 of the Criminal Act are repealed or amended so that no prison sentence (involving compulsory labour) can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requests the Government to provide information on the progress made in this regard. Pending the adoption of such amendments, the Committee requests the Government to provide information on the application of sections 50, 66 and 69 of the Criminal Act in practice. Lastly, the Committee once again requests the Government to provide copies of the amendments to the Criminal Procedures Act of 20 May 2009, as well as a copy of the 2009 Press and Publication 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.*

## Syrian Arab Republic

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1960)**

The Committee notes that the Government's report contains no reply to its previous comments. 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 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 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: 1958)**

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

*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: sections 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 tranquility); 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 hopes that the Government will make every effort to take the necessary action in the near future.*

## **United Republic of Tanzania**

### **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. Penalties and law enforcement.* The Committee previously noted the adoption of the Anti-Trafficking in Persons Act (No. 6 of 2008). Pursuant to section 4 of the Act, trafficking in persons is an offence, punishable with a fine of between 5 million Tanzanian shillings (TZS) and TZS100 million (approximately US\$3,172–\$63,577), or to imprisonment for a term of not less than two years and not more than ten years, or both. Pursuant to section 5 of the Act, a person who promotes, procures or facilitates the commission of trafficking in persons commits an offence, and is liable to a fine of between TZS2 million and TZS50 million (approximately \$1,272–\$31,083), or to imprisonment for a term of not less than one year, but not more than seven years, or both. The Government stated that training on human trafficking was conducted for officers of command districts as well as criminal investigation officers responsible for human trafficking. The Committee therefore requested the Government to provide information on the application of the Act in practice.

The Committee notes the Government's information in its report that, in 2016, around 100 human trafficking cases were investigated, of which 23 offenders were prosecuted in the courts of law, and 19 traffickers were convicted. Among them, one perpetrator was sentenced to ten years' imprisonment, two to seven years' imprisonment and three to five years' imprisonment. However, the Committee notes that, according to the Government's replies to the list of issues of the UN Committee on the Elimination of Discrimination against Women (CEDAW), in February 2015, an Indian man involved in the trafficking of eight Nepalese girls was convicted and sentenced to ten years' imprisonment or to pay a fine of TZS15 million. The perpetrator paid the fine and was released (CEDAW/C/TZA/Q/7-8/Add.1, paragraph 84). Referring to paragraph 319 of the 2012 General Survey on the fundamental Conventions, the Committee 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 also notes that, in its concluding observations of 2016, the CEDAW expressed its concern at the persistence of trafficking in, and sexual exploitation of, women and girls in the country and reports of trafficking in girls for domestic work and sexual exploitation (CEDAW/C/TZA/CO/7-8, paragraph 24). *The Committee therefore requests the Government to take the necessary measures to ensure that the Anti-Trafficking in Persons Act is applied so that sufficiently effective and dissuasive penalties of imprisonment are imposed and enforced in practice in all cases. The Committee also requests the Government to continue providing information on the application of the Anti-Trafficking in Persons Act, including the number of investigations and prosecutions, as well as the penalties applied.*

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.*

## **Thailand**

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1969)**

The Committee notes the observations of the International Transport Worker's Federation (ITF) received on 4 September 2019.

*Articles 1(1), 2(1) and 25 of the Convention.* I. *Vulnerability of migrant workers in the fishing sector to the exaction of forced labour and trafficking.* In its previous comments, the Committee noted that, at its 329th Session (March 2017), the Governing Body approved the report of the tripartite committee that was set up to examine the representation made by the International Trade Union Confederation (ITUC) and the International Transport Workers' Federation (ITF) alleging non-observance of the Convention by Thailand.

The Committee noted that the representation raised two major sets of allegations with regard to compliance with the Convention, namely (i) the situation of workers on board Thai fishing vessels, particularly migrant workers, who were allegedly exposed to forced labour and trafficking; and (ii) the responsibility of the State to ensure that the prohibition of forced labour was strictly enforced by effective and adequate penal sanctions. The Committee also noted that the tripartite committee examined allegations raised by the ITUC and the Government's explanations on the measures taken to combat forced labour and trafficking in the fishing sector, particularly with regard to: (a) recruitment practices; and (b) employment practices.

#### (a) *Recruitment practices*

The Committee noted that the tripartite committee examined several issues related to: (i) brokers and recruitment fees; (ii) the issue of contract substitution; and (iii) the issue of corruption and trafficking in persons.

(i) *Brokers and recruitment fees.* In its previous comments, the Committee noted the provisions under the Royal Ordinance on the Management of Foreign Workers Employment B.E. 2560 (23 July 2017) (Royal Ordinance B.E. 2560) which provided for harsher penalties for offenders and stated clearer responsibilities of employers and licensed recruitment agencies. The Committee also noted the observations made by the ITUC in January 2016 that some migrant and Thai workers in certain fishing vessels had paid recruitment fees of up to US\$742 to brokers. In addition, they had reported not receiving any information regarding working conditions, payment of wages or the length of time at sea prior to getting on board the vessels. The payment system consisted of salary advances sent home in undocumented transfers via brokers and lump sums promised to workers after completing their work at sea. In this regard, the Committee noted the Government's indication that it had prohibited the imposition of recruitment fees on migrant workers, except for certain costs such as the cost of preparing documents and transportation expenses. The Committee requested the Government to continue to strengthen its efforts to ensure that migrant workers in the fishing sector are not exposed to practices that would increase their vulnerability to forced labour, in particular in matters related to the payment of recruitment fees and the recruitment by illegal brokers.

The Committee notes from the observations made by the ITF that the interviews with the fisher members of the ITF's Fishers Rights Network (FRN) over the past 12 months in Ranong, Songkhla and Trat provinces revealed that 89 per cent of fishers are in debt bondage of more than 10,000 Thai baht (THB). The average debt bondage across the entire FRN network is THB21,000 which represents at least two months' salary for most fishers.

The Committee notes the Government's indication in its report that the Foreigners' Working Management Emergency Decree (No. 2) B.E. 2561 (2018) (FWME Decree), which repealed certain provisions of the Royal Ordinance B.E. 2560, stipulates that an employer who brings a foreigner to work with him/her in the country shall not request or accept money or other assets from such workers, except for the expenses paid by the employer beforehand for passport fees, health check-up fees, work permits or other similar expenses as prescribed in a notification by the Director-General of the Department of Employment (section 24). Any employer who violates this provision shall be liable to imprisonment for a term not exceeding six months and a fine of twice the amount or asset value requested, received or accepted by the employer in this regard (section 53). The Committee further notes the Government's information on the steps taken to integrate various government agencies such as the Department of Employment, the Royal Thai Police, Security agencies and administrative officials in respective areas for effectively enforcing this law. Moreover, the Ministry of Labour has integrated cooperation with the navy, the army, the Department of Immigration and other local security agencies to intercept smuggling of migrant workers into the country as well as to conduct operations against recruitment companies and illegal brokers. Accordingly, the Committee notes that in 2018: (i) the Department of Employment inspected 364 migrant workers recruitment agencies and brokers, identified and prosecuted 452 illegal brokers; (ii) the Royal Thai Navy conducted 10,563 patrols along the Thai territorial water border zones, identified 351 irregular migrants and arrested nine illegal brokers; (iii) the Royal Thai Army conducted 99,982 patrols along the territorial border and identified 24,664 irregular migrants; and (iv) the Department of Immigration intercepted and denied entry to 6,800 illegal migrants. The overall operations resulted in the deportation of 28,178 smuggled migrant workers. ***Noting the alarmingly high level of debt bondage among fisher members in the FRN network, the Committee urges the Government to continue to strengthen its efforts to ensure that migrant workers in the fishing sector are not exposed to practices that would increase their vulnerability to forced labour or debt bondage, in particular in matters related to the payment of recruitment fees and the recruitment by illegal brokers; and to report in detail on results in this respect. It also requests the Government to continue to provide information on the application in practice of section 53 of FWME Decree of 2018, indicating the number and nature of violations detected and the penalties imposed for cases of violations.***

(ii) *Contract substitution.* The Committee previously noted that the tripartite committee observed the persistence of the practice of contract substitution of migrant workers. It noted that according to sections 14/1 and 17 of the Labour Protection Act of 1998 and section 6 of the Ministerial Regulation Concerning Labour Protection in Sea Fishery Work of

2014, a formal contract should be signed between the employer and the worker and a copy should be kept with the worker. Moreover, under the Fishery Law of 2017 an identification document (known as a Seabook) has to be issued by the owner of a fishing vessel to any migrant worker in the fisheries sector while signing a standard contract of the Department of Labour Protection and Welfare (DLPW) with that worker. The employment of a worker on a fishing vessel without an identification document, or without a licence shall be subject to a fine of THB400,000 (US\$12,000). The Committee requested the Government to continue to strengthen its efforts to ensure that, in practice, labour contract substitution is effectively prohibited and that the competent authorities register and verify that the signed contract corresponded to the original offer of employment consented to by the worker.

The Committee notes from the observations made by the ITF that 78 per cent of the fishers interviewed by the FRN indicated that they do not have a copy of their employment contract in their possession while some others have never seen it. Some of them have it in Thai language, which is not their language and therefore are unable to understand their pay scale and other mandatory protections available for them.

The Committee notes that according to section 23 of the FWME Decree of 2018, an employer employing a foreigner shall prepare a written contract containing all the details as prescribed by the Director-General and keep it at the business place of the employer for inspection by the competent officials. The Committee further notes the information provided by the Government on the number of Seabook documents that have been issued for migrants under the Fisheries Act, 2017. Accordingly, from October 2017 to June 2019, 14,722 Seabooks were issued and between 30 September to 15 November 2017, 13,455 migrants who did not have a work permit were provided with special Seabooks. ***The Committee requests the Government to continue to strengthen its efforts to ensure that section 23 of the FWME Decree is implemented and that labour contract substitution is effectively prohibited, in practice. In this regard, it encourages the Government to ensure that the competent authorities register and verify that the signed contract corresponds to the original offer of employment consented to by the worker. It also requests the Government to take the necessary measures to ensure that the migrant workers are provided with a copy of their employment contract in their own language.***

(iii) *Corrupt and complicit officials.* The Committee previously noted that the tripartite committee considered that corruption of government officials could create an environment of impunity that exacerbates the situation of vulnerability of migrant fishers and constitutes a major obstacle in the identification of victims of forced labour and trafficked victims. It also noted the observations of the ITUC in 2016, that often, police officers or high-ranking government officials threaten witnesses, interpreters or other police officers. The Committee requested the Government to continue to take proactive measures to ensure that government officials complicit with human traffickers are prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice for violation of the legislation.

The Committee notes the Government's statement that the number of government officials involved or colluding with the offences related to trafficking in persons have decreased due to the intensive legal measures that have been taken against such officials. According to the Government's report, from 2013 to 2016, an average of 44 officials per year were prosecuted and disciplinary actions, including asset seizure/asset freezes, were carried out for their involvement in criminal cases. In 2017, the number had been reduced to 11 officials and in 2018, two officials were prosecuted. ***The Committee requests the Government to continue to take proactive measures to ensure that government officials complicit with human traffickers are prosecuted and that sufficiently effective and dissuasive penalties are imposed in practice for violation of the legislation. It requests the Government to continue to provide information on the measures taken in this regard, including data on the number of government officials who have been prosecuted and convicted for their involvement in the offences related to trafficking of persons.***

## (b) *Employment practices*

(i) *Confiscation of seafarers' identity documents (SIDs).* In its previous comments, the Committee noted that the tripartite committee highlighted that the confiscation of SIDs is a serious problem in the Thai fishing industry. The Committee noted that according to section 68 of the Royal Ordinance B.E. 2560 of 2017, the work permit should always be kept with the migrant worker during his/her work while the confiscation of IDs shall be punishable under section 131 of the Royal Ordinance. The Committee requested the Government to strengthen its efforts to ensure the effective implementation of the Royal Ordinance B.E. 2560 of 2017.

The Committee notes the observations made by the ITF that only 13 per cent of the fishers interviewed had their IDs in their possession while most workers stated that the owner or captain retained possession of their IDs and denied the fishers free access to their documents. When fishers want to change boats, the vessel owner has to sign a release before fishers can legally change the employer. The owner can demand tens of thousands of baht from the fishers for their "document fees" before they release the document or can demand that the new vessel owner "purchase" the debt from the previous owner thereby continuing a severe system of debt bondage or forced labour.

The Committee notes the Government's indication that the Foreigners' Working Management Emergency Decree (No. 2) B.E. 2561 (2018) (FWME Decree), which repeals many of the provisions of the Royal Ordinance of 2017, addresses the problems arising from the work permit applications and difficulties in changing an employer with the implementation of a comprehensive system for prevention, protection, remedies and enforcement in line with the policy of hiring migrant workers. According to section 62 of the FWME Decree which repeals section 131 of the Royal Ordinance, any person who confiscates a work permit or identification card of a foreign worker shall be liable to imprisonment for a term not exceeding

six months or a fine up to THB100,000 or both. The Committee further notes the Government's indication that the provisions of the FWME Decree have been disseminated to employers for them to understand that work permits or other documents of the migrant workers shall be deposited with the employer upon consent of the worker and that employers should provide timely access to such documents at any time upon the request of the worker. ***Recalling that the practice of confiscation of work permits or SIDs is a serious problem that may increase migrant fisher workers' vulnerability to abuse, by leaving them undocumented, reducing their freedom of movement and preventing them from leaving an employment relationship, the Committee urges the Government to strengthen its efforts to ensure that the FWME Decree of 2018 is effectively implemented, and that sufficiently dissuasive penalties for confiscation of work permits or SIDs are imposed on employers who are in breach of the legislation.***

(ii) *Withholding of wages.* The Committee previously noted that the tripartite committee encouraged the Government to continue to strengthen its efforts to address the non-payment of wages, and ensure the effective application of the Ministerial Regulation concerning Labour Protection in Sea Fishery Work B.E. 2557 (2014). It noted the ITUC's assertions in its observations that withholding of wages continued to be a common practice in Thailand, and that weak labour law enforcement and access to justice has led to the lack of guarantee of the payment of wages. The Committee noted that section 8 of the 2014 Ministerial Regulation B.E. 2557 requires an employer to prepare a salary statement including paid leave in the Thai language and that section 11 prohibits the employer from withholding wages. If an employer intentionally refrains from the payment of the salary seven days beyond the agreed initial date of payment, he/she is required to pay an additional amount of 15 per cent of the amount withheld. The Committee requested the Government to ensure that the 2014 Ministerial Regulation B.E. 2557 is effectively implemented, so that all wages were paid on time and in full, and that deterrent penalties for non-payment of wages were imposed.

The Committee notes from the ITF's observations that 82 per cent of the fishers surveyed indicated that they are not paid monthly. While 95 per cent of the fishers know that a bank account has been created along with an ATM card attached to that account, only 3 per cent indicated as having control and possession of their bank account and ATM card. In the majority of cases, the captains or owners control access to the bank account or ATM card and create fictitious electronic payment records showing compliance with minimum wage standards when in reality they are paying much less.

The Committee notes the Government's information that the Port-In-Port-Out Control Centre (PIPO), which is a law enforcement mechanism to control and supervise whether the employees receive their benefits, conduct three levels of inspection on fishing vessels, fishing gears, and workers. Before and after a fishing vessel departs or arrives a port, the vessel must be inspected by a labour inspector in the PIPO to check the payslips and to ensure that the workers have received their wages and benefits as prescribed. The Committee further notes the information provided by the Government on the results of labour inspections conducted by the PIPO. However, the Committee notes with ***concern*** that there is no specific information on the number of cases that relate to wages. ***The Committee urges the Government to take the necessary measures to ensure that the provisions of the Ministerial Regulation B.E. 2557 are effectively implemented, so that all wages are paid on time and in full, and employers face appropriate sanctions for the non-payment of wages. It also requests the Government to continue to provide information on the monitoring activities of the PIPO, including the number of violations detected relating to the non-payment or withholding of wages and the penalties applied.***

(iii) *Physical abuse.* The Committee previously noted that the tripartite committee emphasized the vulnerable situation of fisher workers who may face physical violence that could in certain cases amount to murder. The Committee noted that in its observations, the ITUC provided several examples of fisher workers who had been physically abused or suffered from health complications or even killed. Survivors reported that they were deprived of food for several days, and had to work for up to three days without a break. In this regard, the Committee noted the Government's explanation that the amendment of 2015 (B.E. 2558) of the Anti-Trafficking Act increased the penalty to 20 years' imprisonment if the offence of trafficking causes the victim(s) serious injuries, and life imprisonment or death penalty if the offence causes the victim(s) death. The amendment of 2017 (B.E. 2560) of the Anti-Trafficking Act provides for more explicit provisions, including: (i) the revision of the definition of "exploitation" to cover slavery; and (ii) the revision of the definition of "forced labour or forced service" to cover confiscation of IDs and debt bondage. The Committee urged the Government to take the necessary measures to ensure that the Anti-Trafficking Act, as amended, was effectively implemented.

The Committee notes that Emergency Decree B.E. 2562 (2019), amending the Anti-Human Trafficking Act (B.E. 2551), includes offences related to forced labour or services. According to section 5 of the Decree, any person who compels another person to work or provide services by means of threatening to cause injury to the life, body, liberty, reputation or property of the person threatened; intimidating; using force; confiscating identification documents; using debt burden incurred by such person; or by using any other similar means shall be liable to imprisonment for a maximum term of four years or to a fine up to THB400,000 or to both. If the above offence results in the victim being seriously injured or having a fatal disease, such person shall be liable to imprisonment for a maximum term of twenty years and a fine or to life imprisonment and in case of victim's death shall be liable to life imprisonment or the death penalty.

The Committee also notes the Government's information on the measures taken for the effective enforcement of the Anti-Human Trafficking Act, including the various training activities provided for inquiry officials, administrative staff and labour inspectors on victim identification. Moreover, a workshop to consult the multidisciplinary teams and law enforcement bodies on victim identification was hosted in Bangkok with the participation of officials from the Chief Inquiry Office, the Department of Special Investigations and the Department of Local administration. Recalling the particular nature of the

work of fisher workers, due in part to their isolated situation at sea, the Committee once again underlines the importance of taking effective measures to ensure that this category of workers is not placed in a situation of increased vulnerability, especially when they are subjected to physical violence. ***The Committee therefore urges the Government to take the necessary measures to ensure that the provisions of the Emergency Decree B.E. 2562 (2019) are effectively implemented, and regularly monitored by the law enforcement bodies, to investigate cases of physical abuse. It also requests the Government to take the necessary measures to ensure that the appropriate sanctions are imposed on employers who are in breach of the legislation.***

II. *Law enforcement and access to justice.* In its previous comments, the Committee noted that the tripartite committee highlighted the importance of: (a) strengthening the labour inspectorate body; and (b) providing access to justice and protection to the victims in order to enable the strict enforcement of the provisions prohibiting forced labour.

**(a) Labour inspection and the application of penal sanctions**

The Committee previously noted that the tripartite committee found that the Government had established multidisciplinary inspection teams on fishing vessels that had the mandate to interview workers with a view to preventing them from becoming victims of debt bondage and human trafficking in the fisheries sector. It noted that in addition to the development of the Vessel Monitoring System (VMS), the Command Centre for Combating Illegal Fishing (CCCIF) had established the Electronics Monitoring Messaging and Electronics Reporting System (EM and ERS) which would enhance the capability to control illegal trans-shipment at sea, and help in detecting cases of trafficking in persons. The Committee also noted that according to Order No. 22/2017 on the implementation to combat Illegal, Unreported and Unregulated fishing (IUU), any authorized official who detects unlawful practices under fishery laws, shall have the right to detain the vessel and report it to the Marine Department within 24 hours. It further noted the various trainings provided for labour inspectors and the employment of language coordinators in Department of Labour Protection and Welfare (DLPW) provincial offices, PIPO centres and Migrant Workers Assistance Centres to facilitate communication between migrant workers and government officials. The Committee encouraged the Government to continue to take measures to strengthen the capacity of the labour inspectors in detecting forced labour practices and trafficking of persons.

The Committee notes the observations made by the ITF that the PIPO's use of the vessel monitoring system as a replacement for physical inspections will increase the risk of labour rights violations going unnoticed under the guise of statistics that falsely indicate compliance. The information from the electronic system could be used to conclude that there are no problems on vessels without ever inspecting a vessel or interviewing the crew. An electronic monitoring system may assist in combating illegal, unreported and unregulated fishing, but cannot be viewed as a replacement to physical inspections and human intelligence gathered through hands on inspection.

The Committee notes the Government's information that the DLPW has increased the number of labour inspectors from 1,245 in 2016 to 1,900 in 2018. With regard to the measures taken to enhance the capacity of law enforcement officials in identifying victims of trafficking, the Committee notes the detailed information provided by the Government on the training and capacity-building activities carried out from 2016–18 for labour inspectors and other law enforcement officials. According to the Government's information: (i) training was provided to 185 officials from the Ministry of Labour, Navy and Marine Police within the framework of the ILO Ship to Shore rights project, to increase their inspection skills, particularly in sea fishery and related businesses; (ii) training was provided to more than 250 labour inspectors and officials under the "Enhance Law Enforcement Efficiency for Qualitative Labour Inspectors Training Project" to prevent and deal with issues related to the use of forced labour, debt bondage, trafficking of persons and child labour; (iii) training activities was provided for 52 law enforcement officers to address illegal unreported and unregulated fishing problems; (iv) training activities on forced labour and debt bondage were provided for 101 labour inspectors; and (v) capacity-building activities were provided for 140 participants from the multidisciplinary teams to handle cases of trafficking in persons.

Moreover, the Committee notes the Government's information that it has improved the methods of inspecting sea fishery workers, particularly to identify cases of forced labour and trafficking in persons and that the inspection ensures that workers have an employment contract as specified and receive benefits mentioned in the employment contract. The Government indicates that during 2018–19, owners of two fishing vessels were prosecuted and fined following a preliminary interview with workers in a secluded zone in the absence of the employer and through an interpreter. In 2018, the multidisciplinary team and interpreters interviewed 78,623 vessels in 22 coastal provinces and identified 511 violations relating to rest time, incorrect employment contracts, payslips and documents. Of these, 507 cases have been prosecuted, of which 482 litigations have been finalized.

The Committee further notes the information provided by the Government on the results of the labour inspections at the PIPO centres. Accordingly, in 2018, 74,792 fishing vessels were inspected, 509 offences were detected, 482 orders were issued, owners of 24 vessels were fined, and three cases were prosecuted. It further notes the Government's indication that in 2018, 304 offenders of trafficking in persons were prosecuted, including 258 cases for sexual exploitation, 29 cases for employment-related issues, eight cases for the purpose of begging, and six cases related to the use of forced labour in the fishery sector. ***The Committee requests the Government to continue its efforts to strengthen the capacity of the labour inspectors in detecting forced labour practices and trafficking in persons in the fishery sector. It also requests the Government to continue to provide statistical information on the number and nature of violations related to forced labour or trafficking concerning migrant fisher workers that have been registered by the labour inspectors, as well as by the***

*PIPO centres and penalties imposed. The Committee also requests the Government to take the necessary measures to ensure that the vessels are monitored through physical inspections by labour inspectors and the PIPO centres and that the inspection results are disaggregated by offences.*

**(b) Access to justice and assistance to victims**

The Committee previously noted the tripartite committee's observation that, while the legislation provided for the establishment of different complaints mechanisms, there existed some obstacles to their effective use by workers, such as the duration of the complaints procedure, language barriers and the lack of information on preventive measures with regard to re-trafficking. The Committee noted the Government's statement that there existed special assistance centres for migrant workers and that a number of centres, such as the Fishing Worker Coordinator Centres and the Fisherman's Life Enhancement Centre (FLEC) had been established for migrant fishing workers. In addition, the Committee noted the establishment of 24-hour assistance channels that are accessible to migrant workers in their own languages, as well as the Complaint System for Foreign Workers which operates through the Internet. The Committee further noted the signing of Memoranda of Understanding (MOUs) to tackle trafficking in persons with source countries, such as Lao People's Democratic Republic, Myanmar and Viet Nam and an agreement with the Government of Myanmar on the implementation procedure for the repatriation and reintegration of victims under the concept of safe repatriation, safe receiving and no re-trafficking. The Committee encouraged the Government to continue to take measures to ensure improved protection and assistance to migrant fisher workers so as to prevent them from falling into situations of forced labour or trafficking in persons.

The Committee notes the detailed information provided by the Government on the establishment of various service centres which provide assistance to migrant workers, including:

- four Migrant Workers Assistance Centres aimed at upgrading the quality of life of fishery workers and providing assistance, knowledge on welfare and benefits and receiving grievances from workers;
- Fisherman Centre established by the DLPW and the Labour Rights Promotion Network Foundation which provides assistance to foreign fishers who are victims of forced labour and other abuses;
- Migrant Workers Protection and Monitoring Network under the Ministry of Labour's LINE Application which sets up chat groups that assist migrant workers to reclaim wages and compensation and to advice workers on their rights under relevant provisions (currently there are 29 chat groups gathering 1,431 members);
- PROTECT-U, a mobile application that receive reports of trafficking in persons and refers to the relevant government agencies of other service providers;
- Joint Service Centres for Migrant Workers established in ten provinces and covering workers in 24 industrial sectors which provide advice on work-related benefits, changing employers and coordination and referral for assistance or access to their rights (from October 2018 to June 2019, the centres provided services to 31,934 migrant workers);
- "DOE Help me", a grievance mechanism through the website supporting six languages which provides employment and job-seeking information and receives complaints from Thai and migrant workers (from October 2018 to May 2019, the website recorded 213 grievances from workers and all the complaints received assistance); and
- Hotline 1506 to receive complaints and grievances from migrant workers which has three interpreters.

Moreover, the DLPW has employed language coordinators and interpreters for the effective protection and assistance of migrant workers and to prevent them from becoming victims of forced labour or trafficking of persons. The number of interpreters has increased from 72 in 2016 to 153 in 2018. *The Committee encourages the Government to continue to take measures to ensure improved protection and assistance to migrant fisher workers, so that they do not fall victims to forced labour or trafficking in persons. The Committee also requests the Government to provide statistical information on the number of migrant fisher workers who have had recourse to legal and other assistance from the above-mentioned assistance centres and other online grievance mechanisms.*

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

**Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1969)**

*Article 1(a) of the Convention. Penal sanctions involving compulsory labour as a punishment for holding or expressing political views.* Over a number of years, the Committee has been drawing the Government's attention to section 112 of the Criminal Code under which whoever defames, insults or threatens the king, the queen, the heir apparent or the regent, shall be punished with imprisonment of three to 15 years, as well as sections 14 and 15 of the Computer Crimes Act of 2007 that prohibit the use of a computer to commit an offence under the provisions of the Criminal Code concerning national security (including section 112 of the Criminal Code), with a possible sanction of five years' imprisonment. The Committee noted that under the Penitentiary Act BE 2479 (1936), penalties of imprisonment involve an obligation to perform prison labour. The Committee observed that in its 2017 Concluding observations the United Nations Human Rights Committee (HRC) was concerned that criticism and dissension regarding the royal family is punishable with a sentence of three to 15 years' imprisonment, about reports of a sharp increase in the number of people detained and prosecuted for the crime of lèse-majesté since the military coup and about extreme sentencing practices, which resulted in

dozens of years of imprisonment in some cases (CCPR/C/THA/CO/2, paragraph 37). The HRC was also concerned about reports of the severe and arbitrary restrictions imposed on the right to freedom of opinion and expression in the state party's legislation, including in the Criminal Code and the Computer Crimes Act. The HRC further expressed concern about criminal proceedings, especially criminal defamation charges, brought against human rights defenders, activists, journalists and other individuals under the above-mentioned legislation, and about reports of the suppression of debate and campaigning, and criminal charges against individuals during the run-up to the constitutional referendum in 2016. The Committee noted with deep concern that the penalties of imprisonment involving compulsory prison labour, contained in the Penitentiary Act of 1936, were retained under the 2017 amendments to the same Act. The Committee therefore urged the Government to take all necessary measures, in both law and practice, to ensure that no penalties involving compulsory labour may be imposed for the peaceful expression of political views or views opposed to the established system.

The Committee notes the explanation provided by the Government in its report that the *lèse-majesté* offence, which relates to the security of the Kingdom under section 112 of the Criminal Code, is intended to protect the king, the queen, the heir apparent and the regent from defamation, insults or threats in the same way as defamation law for citizen. These provisions maintain stability and order without any intention to impede freedom of expression. The Committee also notes the Government's indication that the provisions under section 112 of the Criminal Code and sections 14 and 15 of the Computer Crimes Act shall be considered as a criminal offence only if they are constituted by the following elements namely: (i) an offender has committed an act defaming, insulting or threatening; (ii) the act is committed against the king, the queen, the heir apparent or the regent; and (iii) the act is intentional. The Government further refers to the amendments made in 2017 to sections 14 and 15 of the Computer Crime Act of 2007. According to these amendments, section 14 makes it an offence to dishonestly or fraudulently convey a distorted or fake or false data through the computer system which may cause damage to the people, or to the national security, public safety, national economic security or infrastructure, or an offence relating to terrorism, or data involving obscene materials that the general public may have access. This offence shall be punished with imprisonment not exceeding five years or a fine. According to section 15, any service provider who cooperates or consents to the offences committed under section 14 shall be liable to the same penalty. The Government states that if the service provider complies with the notification issued by the Minister prescribing the suspension on dissemination of that particular data and removal of that data from the computer system, they shall not be liable to any punishment.

The Committee finally notes the Government's information that the Corrections Act BE 2560 (2017) which repeals the Penitentiary Act of 1936, does not have any provision that imposes compulsory labour for prison sentences. According to the Government's report, the Department of Corrections has measures to ensure that prisoners can choose to work voluntarily. However, the Committee notes that section 48 of the Corrections Act of 2017 requires prisoners to comply with the orders of prison officials to work in certain prison functions relevant to the prisoner's physical and mental aptitude, gender and status as well as the desire to improve inmates' behaviour and the security and specific characteristics of a prison.

The Committee recalls that restriction on fundamental rights and liberties, including freedom of expression, have a bearing on the application of the Convention if such restrictions are enforced by sanctions involving compulsory prison labour. The Committee draws the Government's attention to the fact that legal guarantees of the 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, or as a means of political coercion or education (see General Survey on the fundamental Conventions, 2012, paragraph 302). *The Committee therefore once again urges the Government to take immediate measures to ensure that no penalties involving compulsory labour, including compulsory prison labour, may be imposed for the peaceful expression of political views opposed to the established system, both in law and in practice. In this regard, the Committee requests the Government to ensure that section 112 of the Criminal Code is amended, by clearly restricting the scope of these provisions to acts of violence or incitement to violence, or by repealing or replacing sanctions involving compulsory labour with other kinds of sanctions (e.g. fines) in order to ensure that no form of compulsory labour (including compulsory prison labour) may be imposed on persons who, without using or advocating violence, express certain political views or oppositions to the established political, social or economic system. The Committee requests the Government to provide information on any progress made in this respect. The Committee also requests the Government to provide information on the application in practice of sections 14 and 15 of the Computer Crimes Act 2007, including court decisions issued under these sections, indicating in particular the facts that gave rise to the convictions and the sanctions applied.*

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

## Togo

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1999)**

*Article 1(a) of the Convention. Imposition of prison sentences involving an obligation to work 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 noted that, under section 68 of the Penal Code (Act No. 2015-010 of 24 November 2015), persons sentenced to imprisonment are subjected to the obligation to work. It noted that, following the adoption of a

new Penal Code in 2015, sections 290, 291 and 292 of that Code relating to defamation prescribe prison sentences of one to six months and a fine. The Committee further noted that section 86 of the Media Code establishes a penalty of three months to one year of imprisonment and a fine for any person who, through various means referred to in section 85 of the Code (written or printed matter, posters or drawings), incites the population to violate the laws of the Republic and that, in the event of a repeat offence, the maximum penalty may be doubled. The Committee requested the Government to provide information on the application of the above-mentioned sections in practice.

The Committee notes the Government's indication in its report that in practice the court of first instance has never issued judgments on the basis of, or pursuant to, sections 290, 291 and 292 of the Penal Code. However, the Government adds that a judicial proceeding has been initiated on the basis of section 86 of the Media Code. This proceeding is still in progress.

The Committee notes that in the 2016 compilation prepared by the Office of the United Nations High Commissioner for Human Rights, the Human Rights Council noted that the Special Rapporteur on the situation of human rights defenders had received testimonies of continued harassment and intimidation of journalists who worked on human rights-related issues, reported information of cases of corruption of government officials or publicly criticized the Government. Some of them had faced criminal lawsuits for defamation or charged under the Media Code. The Special Rapporteur recommended that defamation be repealed from criminal jurisdiction and be handled in civil jurisdiction, with penalties proportionate to the harm done (A/HRC/WG.6/26/TGO/2, paragraphs 65 and 67).

The Committee notes this information and expresses *concern* at the continuing existence in the legislation of provisions which can be used to restrict the exercise of the freedom to express political or ideological views (orally, in the press or through other communications media) and which can result in the imposition of penalties involving compulsory prison labour. In this regard, the Committee recalls that *Article 1(a)* of the Convention prohibits the use of forced labour, including compulsory prison labour, as a punishment for persons who, without having recourse to violence, hold or express political views or views ideologically opposed to the established political, social or economic system. It emphasizes that the range of activities which must be protected, under this provision, from punishment involving forced or compulsory labour thus includes the freedom to express political or ideological views (orally, in the press or through other communications media) (see 2012 General Survey on the fundamental Conventions, paragraph 302). *The Committee urges the Government to take the necessary steps, in law and in practice, to ensure that no penalty involving compulsory labour can be imposed for the peaceful expression of political views or of opposition to the established order, for example by suppressing penal sanctions involving compulsory labour. The Committee requests the Government to provide information on all progress made in this respect. The Committee also requests the Government to provide further details on the judicial proceeding initiated on the basis of section 86 of the Media Code and to indicate the outcome thereof, as well as on any other proceedings initiated on this basis or on the basis of the above-mentioned sections of the Penal Code.*

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

## Turkmenistan

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)**

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019.

*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 that, in accordance with section 7 of the Law on the legal regime governing emergencies of 1990, in order to mobilize labour for the needs of economic development and to prevent emergencies, state and government authorities may recruit citizens to work in enterprises, institutions and organizations. The Committee considered that the notion of "needs of economic development" did not seem to satisfy the definition of "emergency" referred to in the Forced Labour Convention, 1930 (No. 29), and was therefore incompatible with both *Article 2(2)(d)* of Convention No. 29 and *Article 1(b)* of Convention No. 105, which prohibits the imposition of compulsory labour as a method of mobilizing and using labour for purposes of economic development. The Committee also noted the Government's indication that the State of Emergency Act, the Emergency Response Act and the Law on preparation for and carrying out of mobilization in Turkmenistan do not mention the concept of "purposes of economic development". Instead, citizens may be employed in undertakings, organizations and institutions during mobilization in order to ensure that the country's economy continues to function and to produce goods and services that are essential to satisfy the needs of the State, the armed forces and the population, in case of emergency. Moreover, section 19 of the Labour Code provides that an employer may require a worker to undertake work which is not associated with his or her employment in cases specified by law.

In its conclusions adopted in June 2016, the Conference Committee urged the Government: (i) to take effective measures, in law and in practice, to ensure that no one, including farmers and public and private sector workers, is forced to work for the state-sponsored cotton harvest, and threatened punishment for the lack of fulfilment of production quotas under the pretext of "needs of economic development"; (ii) to repeal section 7 of the Law on the Legal Regime Governing Emergencies of 1990; and (iii) to seek technical assistance from the ILO in order to comply with the Convention in law and

in practice and to develop a national action plan to eliminate forced labour in connection with the state-sponsored cotton harvest.

The Committee noted that the International Organisation of Employers (IOE), in its observations of 2016, expressed high concern at the reported practices of forced labour in cotton production which affected farmers, businesses and private and public sector workers, under threat of punishment for the lack of fulfilment of production quotas. Moreover, the observations made by the ITUC in 2016 highlighted the practices of forced mobilization by the Government of employees of a wide range of private and public sector institutions to pick cotton, including education and healthcare institutions, municipal government offices, libraries, museums, meteorological agencies, cultural centres, sports organizations, utility, manufacturing, construction, telecommunications and fishing companies. Those who refused faced administrative penalties, including public censure, docked pay and termination of employment. In this regard, the Committee noted the Government's statement that, in certain regions of the country, local government and agricultural producers, together with local employment services, organized voluntary recruitment from among those registered during the seasonal cotton harvest in order to provide seasonal employment to that sector of the population.

The Committee further noted from the report of the ILO Technical Advisory Mission of September 2016 that although representatives of international organizations and foreign embassies that the mission met with indicated that the practice of forced labour existed, in most cases they did not have direct proof of this as it was difficult to access the cotton fields. The mission report took note of the various national strategies and action plans developed by the Government, including the National Human Rights Action Plan (2016–20); the National Action Plan to Combat Trafficking in Persons (2016–18); the UN Partnership Framework for Development signed in April 2016; and the Sustainable Development Goals (SDGs) adopted in September 2016. It also took due note of the political will demonstrated by the Government to address the issue of forced labour in cotton harvesting in the country. The Committee urged the Government to continue to collaborate with the ILO with a view to eliminating, in law and in practice, forced labour in connection with the state-sponsored cotton harvesting.

The Committee notes from the recent observations made by the ITUC that in November 2018 workers in all sectors of the national economy were sent to the cotton fields, some even sent to remote districts hundreds of kilometres away from their homes. For the first time in 15 years, teachers were forced to spend their nine-day fall break picking cotton. In the region of Mary, an estimated 70 per cent of the teachers were required to pick cotton during the 2018 harvest season. The ITUC also states that people worked from early morning until dusk with a 30–60 minute break for lunch and in the evening they were bussed back to the city. People who were sent away to the fields for ten or more days stayed in a temporary base with an earth floor and without sanitation facilities. Farmers were required to produce a large cotton yield and were expected to meet the state quotas and pay the workers that were forced to work by the Government to pick cotton. Authorities threatened farmers with loss of land if they did not meet government-imposed quotas.

The Committee notes the Government's information in its report that the Decision of the Public Council adopted in September 2018 aims to improve the working methods in the agricultural sector and place work in this field on a modern footing and provide for the broad recruitment of private producers in agriculture. According to this Decision, plots of land shall be offered on a contractual basis to joint stock companies, family farms and other legal entities and producers for use for a period of 99 years for the production of crops like wheat and cotton. The Committee also notes the Government's information that it has resorted to using cotton harvesting machines to pick cotton and hence there is no need for the mass recruitment of human resources for this purpose. The Government indicates that during the harvesting season in 2017, 1,200 harvesting machines were used and in 2018, 500 additional machines were purchased from Uzbekistan and a contract for 200 such machines were concluded with a company that manufactures agricultural equipment. The Committee further notes the Government's information that together with the social partners, a draft cooperation programme has been developed and submitted to the ILO for consideration. This draft sets out measures for the implementation of international rules and standards, decent work, fair pay and social protection, and the active participation of social partners on issues of decent work and employment. The Committee notes, however, that this draft cooperation programme has not been agreed upon.

The Committee notes that the UN Committee on Economic, Social and Cultural Rights, in its concluding observations of October 2018, expressed concern at the reported continued widespread use of forced labour among workers and students under threat of penalties during the cotton harvest (E/C.12/TKM/CO/2, paragraph 23). It also notes from the Summary of Stakeholders' submissions of February 2018 to the UN Human Rights Council that people forced to pick cotton had been compelled to sign declarations on "voluntary" participation in the harvest (A/HRC/WG.6/30/TKM/3, paragraph 49). While taking due note of the measures taken by the Government, the Committee must express its **concern** at the continued practice of forced labour in the cotton sector and the poor working conditions of workers employed in this sector. **The Committee therefore urges the Government to continue to take measures to ensure the complete elimination of the use of compulsory labour of public and private sector workers, as well as students, in cotton farming, and requests it to provide information on the measures taken to this end and the concrete results achieved, with an indication of the violations detected and the sanctions applied. In this regard, the Committee strongly encourages the Government to continue to avail itself of ILO technical assistance, with a view to eliminating, in law and in practice, forced labour in connection with the state-sponsored cotton harvesting as well as to improve recruitment and working conditions in the cotton sector.**

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)**

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 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 referring to the following provisions of the national legislation, under which penal sanctions involving compulsory prison labour, by virtue of section 62 of the Prisons Regulations, may be imposed:

- 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 and subject to penalties involving compulsory labour; and
- 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 render any speech, publication or activity on behalf of, or in support of, such a combination, illegal and punishable with imprisonment (involving an obligation to perform labour).

The Committee requested the Government to take the necessary measures to ensure that the above provisions are amended or repealed so as to ensure the compatibility of the legislation with the Convention.

The Committee notes the Government's indication in its report that both the Public Order and Security Act and the Penal Code are in conformity with the Convention.

However, the Committee notes the statements made by a certain number of governments in the 2016 report of the Working Group on the Universal Periodic Review (report to the UN Human Rights Council (HRC)), recommending the amendment of the Public Order Management Act of 2013, in order to ensure full respect of freedom of association and peaceful demonstration (A/HRC/34/10, paragraphs 115.101, 117.8, 117.18 and 117.52). Moreover, the Committee notes that, according to the Report of the HRC of 2017, a certain number of stakeholders regretted that Uganda failed to fully implement its commitments from the first Universal Periodic Review regarding freedom of expression, peaceful assembly and association. They also expressed concern over physical assaults on journalists and the harassment of political activists as well as human rights defenders, and urged for reforms to the Penal Code, the Press and Journalists Act and the Public Order Management Act of 2013 (A/HRC/34/2, paragraphs 688, 692, 693 and 694).

The Committee further notes with *concern* that penalties of imprisonment (involving compulsory prison labour) may be imposed under the following provisions of the Public Order Management Act, 2013: section 5(8) (disobedience of statutory duty in case of organizing a public meeting without any reasonable excuse); and section 8(4) (disobedience of lawful orders during public meetings).

In this regard, the Committee is bound to recall that *Article 1(a)* of the Convention prohibits all recourse to sanctions involving an obligation to perform labour, as a means of political coercion or as a punishment for holding or expressing political views, or views ideologically opposed to the established political, social or economic system. It also points out that the protection conferred by the Convention is not limited to activities expressing or manifesting opinions diverging from established principles; even if certain activities aim to bring about fundamental changes in state institutions, such activities are covered by the Convention, as long as they do not resort to, or call for, violent means to these ends. ***In light of the above considerations, the Committee urges the Government to take the necessary measures to ensure that the abovementioned provisions of the Public Order and Security Act, No. 20 of 1967, the Penal Code, and the Public Order Management Act of 2013 are amended or repealed so as to ensure that no prison sentence entailing compulsory labour can be imposed on persons who, without using or advocating violence, express certain political views or opposition to the established political, social or economic system. It requests the Government to provide information on measures taken in this regard.***

*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. Strikes may be declared unlawful, for example, where the minister or the labour officer refers a dispute to the Industrial Court (section 28(4)) or where the Industrial Court makes an award which has come into force (section 29(1)). The organization of strikes in these circumstances is punishable with imprisonment (involving compulsory prison labour) pursuant to sections 28(6), 29(2) and (3) of the Act, and the Committee accordingly reminded the Government that such penalties were not in conformity with the Convention. In addition, the Committee noted that, under section 34(5) of the Labour Disputes (Arbitration and Settlement) Act, 2006, the minister may refer disputes in essential services to the Industrial Court, thus making illegal any collective withdrawal of labour in such services, with violation of this prohibition being punishable with imprisonment (involving an obligation to perform labour) (section 33(1) and (2) of the Act). The Committee requested the Government to take the necessary measures to bring the abovementioned provisions of the Labour Disputes (Arbitration and Settlement) Act, 2006 into conformity with the Convention.

The Committee notes the absence of information on this point in the Government's report. ***The Committee therefore once again requests the Government to take the necessary measures to bring the abovementioned provisions of the Labour Disputes (Arbitration and Settlement) Act, 2006, into conformity with the Convention, either by removing the penalties of imprisonment involving compulsory labour, or restricting their scope to essential services in the strict sense of the term (namely those services, the interruption of which would endanger the life, personal safety or health of the whole or part of the population), or to situations of acute national crisis. The Committee requests the Government to provide information on measures taken in this regard.***

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

## Uzbekistan

### **Abolition of Forced Labour Convention, 1957 (No. 105) (ratification: 1997)**

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Tobacco and Allied Workers' Associations (IUF) received on 30 August 2019.

*Article 1(b) of the Convention. Mobilization and use of labour for purposes of economic development in agriculture (cotton production).* In its previous comments, the Committee noted the allegations made by the IUF that the Government of Uzbekistan continued to impose a state system of forced labour for the economic purpose of producing cotton. It also noted the International Trade Union Confederation's (ITUC) observations that there were a number of cases of involuntary engagement of workers as well as cases of extortion for replacement payments by local authorities which needed to be investigated and prosecuted. In this regard, the Committee noted the information provided by the Council of the Federation of Trade Unions of Uzbekistan (CFTUU) on the various measures taken within the framework of cooperation between Uzbekistan, the ILO and the World Bank for the implementation of ILO Conventions on child and forced labour in 2016, including training courses and seminars on international labour standards and their implementation for employees of ministries, departments, NGOs and farmers; awareness-raising campaigns against child and forced labour; and monitoring and implementation of the Feedback Mechanism (FBM). Moreover, at a round table discussion held in Tashkent and entitled "Status and Prospects for Cooperation between Uzbekistan and the ILO" all the participants, including representatives of the ILO, IOE, ITUC, World Bank, UNDP, UNICEF and diplomatic representatives expressed their commitment and willingness to cooperate closely with Uzbekistan.

The Committee further noted the results of the ILO quantitative survey on employment practices in the agricultural sector conducted by the research centre (*Ekspekt fikri*) which indicated a decrease in the number of cotton pickers from 3.2 million in 2014 to 2.8 million in 2015; an increase in the number of voluntary participants in the 2015 cotton harvest; and a decrease in the number of medical employees, educational workers and students among the cotton pickers. The Committee finally noted from the report of the ILO, Third Party Monitoring and Assessment of Measures to Reduce the Risk of Child Labour and Forced Labour during the 2016 cotton harvest (TPM report) that since the 2015 harvest, the Government had made further commitments against child and forced labour, especially within the Action Plan for Improving Labour Conditions, Employment and Social Protection of Workers in the Agricultural Sector 2016–18. Several training workshops to build the capacity of officials, including *Hokims* (regional governors), were conducted before the harvest with ministries, organizations and entities involved at all levels. Public awareness campaigns during the harvest reached remote villages, and messages on child and forced labour, on labour rights, and on the FBM hotline were distributed nationwide. Referring to the preliminary results of the ILO quantitative survey, the TPM report indicated that of the 2.8 million cotton pickers in 2015, a significant number, about two-thirds, were recruited voluntarily and that those "at risk" of involuntary work were mainly from the education sector, medical staff and students. The TPM report indicated that the monitoring teams, led by ILO experts, who visited 50 medical care facilities found that they were functioning normally during the harvest and that the staff attendance were usually monitored. The TPM report further indicated that while the unacceptability of child labour were recognized by all segments of society, awareness on risks of forced labour needed to be improved. The TPM report concluded that while important measures had been introduced for the voluntary recruitment of cotton pickers, they were not robust enough to decisively change the recruitment practices. Referring to the recommendations indicated in the TPM report to reduce the risk of forced labour in the cotton harvest, the Committee strongly encouraged the Government to continue to take effective and time-bound measures to strengthen safeguards against the use of forced labour in the cotton harvest, including through strengthening a functioning labour relations system for cotton pickers, developing a high-quality training strategy for all actors involved in the cotton harvest and continuing to raise awareness among all segments of society about the risks of forced labour in the cotton harvest.

The Committee notes the observations made by the IUF that the mobilization and use of labour for economic development in agriculture and to an extent in other sectors, remains a massive, systematic, ubiquitous and truly nationwide practice involving military personnel and servicemen, doctors, teachers, employees of state enterprises and other workers.

The Committee notes the Government's information in its report on the various legislative measures taken, including amendments and additions to the existing laws as well as adoption of new laws to improve the working and employment conditions in agriculture and to bring them into compliance with the fundamental standards and norms. In this regard, the Committee notes the Government's reference to the following measures taken:

- Law No. ZRU-558 of August 2019 on insertion of amendments and additions to several pieces of legislation, including section 51 of the Administrative Liability Code, thereby stiffening the penalties for coercion to work and the engagement of children in forced labour;
- Order No. 197-ICH of the Ministry of Employment and Labour Relations (MELR) of 13 August 2019 on increasing the number of city and district state legal labour inspectors of the state labour inspectorate;
- Resolution No. 349 of the Cabinet of Ministers of 10 May 2018 on additional measures to eliminate forced labour through mandating the heads of state and economic administrative bodies at all levels to respond effectively to and stop the exaction of all types of forced labour from individuals, in particular, educational and healthcare workers,

pupils, and employees of other public sector organizations, and to impose strict disciplinary measures against officials who directly or indirectly commit or allow the exaction of forced labour;

- Presidential Edict No. UP-5563 of 29 October 2018 on increasing the responsibility of heads of state bodies at all levels for prohibiting and eliminating forced labour in all its forms and manifestations;
- Resolution No. 799 of the Cabinet of Ministers of October 2017 on the organization of the operations of the Community Work Fund of the MELR with the aim of prohibiting forced labour by engaging individuals in paid community work.

The Government also indicates that notices regarding the prohibition of child labour and forced labour have been displayed in all localities, in healthcare and educational institutions and state organizations. Wide-scale campaigns on penalties for breaching the prohibition of child labour and forced labour have been conducted. With the assistance of the ILO, in 2018, 400 banners and 100,000 flyers on the prohibition of forced labour were distributed and placed in visible locations across the country. A short film on the FBM on forced labour was broadcasted on television. Tangible organizational and financial steps have been taken with a view to recruiting workers voluntarily for the cotton harvest. The Committee further notes the Government's information regarding the reports on forced labour received by the FBM through a messaging service Telegram and a telephone hotline. According to this database, in 2016 and 2017, no more than 15 reports were received, in 2018, 2,135 reports were received. The state labour inspectors examined all the reports and in 284 cases concerning the use of forced labour, administrative penalties were imposed on persons forcing employees to pick cotton, including heads of the tax inspectorates and heads of the region, local council and local administrations (*hokims*). Orders were sent to 250 organizations to remedy breaches of the labour law and occupational safety and health; 50 representations were sent to heads of organizations; and a warning was sent to the Ministry of Defence. Disciplinary proceedings were brought against over 100 directors of comprehensive socio-economic development zones, 30 of them were dismissed from their posts, and 11 *hokims* were fined. Moreover, the Committee notes from the Government's report that the ILO Decent Work Country Programme (DWCP) has been extended to 2020.

The Committee notes with *interest* from the report of the ILO, Third Party Monitoring of child labour and forced labour during the 2018 cotton harvest (TPM report of 2018) that Uzbekistan has demonstrated major progress in the eradication of forced labour in the cotton harvest of 2018. Forced labour was reduced by 48 per cent compared to 2017. According to this report, there is a continued strong political commitment and clear communications from the Government of Uzbekistan to eradicate forced labour. The Committee also notes the following positive developments and results achieved in 2018 as reflected in the TPM report:

- Systematic forced labour (refers to a situation of forced labour imposed by the Government in a methodical and organized manner) was not exacted by the Government during the 2018 cotton harvest;
- The prohibition on recruiting students, teachers, nurses and doctors was systematically implemented and generally observed at the local level;
- Wages were increased by up to 85 per cent compared to the previous harvest and cotton pickers were paid on time and in full;
- Media started reporting actively on forced labour. Journalists were encouraged by the Government to cover forced labour issues. Local independent human rights activists were free to conduct their monitoring activities;
- Labour inspectorate was strengthened with 200 inspectors receiving training by the ILO on forced labour investigations and were deployed throughout the country to investigate alleged forced labour cases; and
- Over 2,000 cases of forced labour were investigated and 206 *hokims*, officials and managers were sanctioned for forced labour violations, leading to fines, demotions and dismissals.

The Committee takes due note of the measures taken by the Government and their impact on reducing the number of cases of forced labour in cotton farming. It notes however from the TPM report of 2018 that while a vast majority of pickers are not in forced labour, there are still a considerable number of cases of forced labour (6.8 percent or 170,000 people) mainly because the legacy of the centrally planned agriculture and economy (centrally set quotas) is still conducive to the exaction of forced labour. The TPM report states that although reforms announced by the central Government have had an impact, the uneven implementation of national policies, especially at the local level remains a challenge. ***The Committee therefore strongly encourages the Government to continue its efforts, including through its cooperation with the ILO and the social partners, within the framework of the DWCP, to ensure the complete elimination of the use of forced labour in cotton farming through the effective implementation of its policies at the local level. It requests the Government to continue to provide information on the measures taken to this end and the concrete results achieved, with an indication of the sanctions applied.***

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

## Viet Nam

### **Forced Labour Convention, 1930 (No. 29) (ratification: 2007)**

The Committee notes 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. Compulsory military service.* In its previous comments, the Committee noted the Government's statement that all citizens have the obligation to participate in the military service or the militia and self-defence forces, and participation in one service will exempt a person from the obligation to serve in the other. Section 8(3) of the Law on Militia and Self-Defence Forces of 2009 provides that the tasks of the militia and self-defence forces include, inter alia, protecting forests and preventing forest fires, protecting the environment and the construction and socio-economic development of localities and establishments. The Government indicated that this work includes dredging canals, building roads, supporting the economic development of households, planting trees and contributing to reducing and eliminating poverty. Between July 2010 and December 2012, the militia and self-defence forces had 163,124 enlisted persons who worked 2,508,812 working days.

The Committee notes the Government's information in its report that the involvement of militia and self-defence forces in the construction of infrastructure projects and public welfare projects at the grassroots level are conducted on the basis of discussions and self-determination, pursuant to the Ordinance on the democracy in communes, wards and townships No. 34/2007/PL-NASC11. The Committee also notes that, according to section 9 of the Law on Militia and Self-Defence Forces of 2009, Vietnamese citizens aged between 18 and 45 years for men and between 18 and 40 years for women are obliged to join militia or self-defence forces. Its section 10 provides that the term of service in the militia and self-defence force is four years. Moreover, based on the practical situation, the nature of tasks and work requirements, the term of service in the militia and self-defence force may be prolonged for not more than two years for militia persons, or for a longer period for self-defence members and commanders of militia and self-defence units until they reach the age limits. This decision is taken by the chairpersons of People's Committees at the commune level and heads of agencies or organizations.

The Committee observes that, in view of its duration, scope and the broad range of work performed, labour exacted from the population in the framework of compulsory service in the militia and self-defence force goes beyond the exceptions authorized by *Article 2(2)(c)* of the Convention. The Committee reminds the Government that compulsory military service is excluded from the scope of the Convention, provided that it is used "for work of a purely military character". This condition is aimed specifically at preventing the call-up of conscripts for public works (see 2012 General Survey on the fundamental Conventions, paragraph 274). ***The Committee therefore urges the Government to take the necessary measures, in law and practice, to ensure that persons working by virtue of compulsory military conscription laws, including in the militia and self-defence forces, only engage in work of a military nature. It also requests the Government to provide information on the number of persons performing compulsory service in the militia and self-defence forces.***

*Article 25. Penal sanctions for forced labour.* The Committee previously noted that section 8(3) of the Labour Code of 2012 prohibits the exaction of forced labour. Section 239 of the Labour Code states that persons who violate the Code's provisions, depending on the nature and seriousness of their violations, shall be disciplined and administratively sanctioned or prosecuted for criminal liability. In this regard, the Committee noted the Government's statement that the Ministry of Justice was conducting consultations on the contents of the Criminal Code, and had requested the Government to include the criminal offence of forced labour to the Criminal Code.

The Committee notes with *satisfaction* that the Criminal Code (No. 100/2015/QH13) was adopted on 27 November 2015, section 297 of which provides for penal liability for coercive labour. According to it, any person who uses violence or threat of violence or other methods to force a person to work against his/her will is punishable by a fine of from 50 million to 200 million Vietnamese dong (approximately US\$2,195–\$8,782) or imprisonment from six months to 12 years. ***The Committee requests the Government to provide information on the application of section 297 of the Criminal Code of 2015 in practice, including the number of investigations, prosecutions, convictions and specific penalties imposed.***

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.***

## Zambia

### **Forced Labour Convention, 1930 (No. 29) (ratification: 1964)**

*Articles 1(1), 2(1) and 25 of the Convention. Trafficking in persons. 1. Law enforcement and penalties.* In its earlier comments, the Committee noted the obstacles facing prosecutors in cases related to trafficking in persons, such as lack of sufficient evidence to prosecute under anti-trafficking legislation and lack of information on exploitation of the victim. It also noted that the Government had benefited from the assistance of the ILO, the International Organization for Migration (IOM), and the United Nations Children's Emergency Fund (UNICEF) within the framework of an European Commission funded project, with the objective of providing training and capacity building to the social partners and labour inspectors on trafficking, and defining strategies for empowering workers and their families to combat trafficking in persons. The Committee further noted the activities implemented within the framework of the Joint Programme under the IOM's Counter Trafficking Assistance Programme, including the reinforcement of capacities of the law enforcement bodies and civil society to operationalize the Anti-Human Trafficking Act of 2008. It requested the Government to take the necessary measures to enable the law enforcement officials to identify effectively cases of trafficking in persons and to gather the necessary evidence to support criminal prosecution.

The Committee notes the detailed information provided by the Government in its report on the various measures taken by the National Prosecution Authority (NPA) in building the capacities of the law enforcement officials and prosecutors to deal with cases related to trafficking in persons. In this regard, the Committee notes that the NPA, in cooperation with the United Nations Office on Drugs and Crime (UNODC) as well as in partnership with regional bodies, such as the Conference

of Western Attorneys General–African Alliance Partnership (CWAG–AAP), the Asset Recovery Inter-Agency Network for Southern Africa (ARINSA), the African Prosecutors Association (APA), and the Southern African Development Community (SADC) and other national and international bodies, conducted various training programmes and capacity-building activities for law enforcement officials and designed initiatives to enhance the prosecutorial services and investigation techniques of trafficking in persons cases across the country. It also notes the Government’s information that such cooperation has enabled it to create a platform for exchanging information and gathering statistics, data and other relevant information on trafficking in persons within the country. It also notes that within the partnership with the APA, the NPA has benefited from the training provided by the International Law Enforcement Agency (ILEA). The Committee further notes the Government’s reference to the UNODC–Zambia Cooperation Project on trafficking in persons, launched in March 2019, which aims to sensitize key stakeholders on UNODC’s counter trafficking cooperation project and to establish partnership with national authorities to guide its implementation.

Furthermore, the Committee notes the Government’s information that the application of the Anti-Human Trafficking Act is carried out through the activities of the National Committee and National Secretariat on Human Trafficking within the Ministry of Home Affairs. These structures coordinate the prosecution of trafficking in persons cases countrywide, report on trafficking in persons activities undertaken by the NPA and gather statistical data on trafficking in persons. Moreover, the National Committee has also conducted several training programmes and capacity-building workshops for labour officers and other law enforcement officials to prevent, suppress and combat trafficking in persons. The Committee also notes the Government’s statement that the decentralization of the NPA across the country and the subsequent incorporation of Public Prosecutors has been a proactive approach to prosecution whereby all prosecutors are directly supervised by a State Advocate. This has greatly minimized the delays in disposal of matters owing to the absence of qualified and trained advocates. The Committee further notes the Government’s indication that the NPA prosecuted eight cases of trafficking in persons while currently nine cases of trafficking in persons are pending under the Anti-Human Trafficking Act. ***The Committee requests the Government to continue to provide information on the application in practice of the Anti-Human Trafficking Act, including in particular, information on the number of investigations, prosecutions and convictions, as well as specific penalties imposed. It also requests the Government to continue providing information on the activities of the NPA in strengthening the capacity of the law enforcement officials in their fight against trafficking in persons as well as the activities of the National Committee and National Secretariat on Human Trafficking within the framework of the Anti-Human Trafficking Act.***

2. *National Plan of Action.* In its previous comments, the Committee requested the Government to indicate whether a new national plan of action to combat human trafficking had been elaborated. The Committee notes the Government’s information that the National Inter-Ministerial Committee with support from the IOM revised and updated the National Action Plan on Human Trafficking, Mixed and Irregular Migration, 2018–21 which is aligned with the Seventh National Development Plan and the Anti-Human Trafficking Act. It further notes the Government’s information that in June 2019, four subcommittees on protection, prevention, prosecution and partnerships, were established to coordinate the activities against trafficking of persons. ***The Committee requests the Government to provide detailed information on the actions taken within the framework of the National Action Plan on Human Trafficking, Mixed and Irregular Migration, 2018–21, and their impact in combating trafficking in persons and the results achieved.***

3. *Protection and assistance to victims.* In its previous comments, the Committee noted certain difficulties identified by the Government concerning the protection and assistance provided to victims of trafficking. It also noted that within the framework of the Joint Programme under the IOM’s Counter Trafficking Assistance Programme, a certain number of actions were carried out, including in the following areas: direct assistance to victims of trafficking; the provision of safe and secure shelters; medical and psychosocial care; and repatriation and reintegration assistance. The Committee requested the Government to strengthen its efforts to provide protection and assistance to victims of trafficking, and to supply information on the measures taken in this regard as well as on the number of victims who have benefited from such measures.

The Committee notes the Government’s information that the Ministry of Community Development and Social Services (MCDSS) in collaboration with other civil society and international organizations undertook a number of measures to provide protection and assistance to victims of forced labour and trafficking. These measures include:

- building and refurbishing of places of safety: the Government indicates that currently there are six places of safety in six districts and that it is envisaged to build such places of safety in other districts;
- the Best Interest Determination Guidelines for the Protection of Migrant Children has been launched;
- a National Referral Mechanism to deal with victims of trafficking and vulnerable migrants has been developed;
- National and District Committees on Human Trafficking to identify victims of trafficking have been replicated at the border towns of Sesheke, Mbala, Nakonde and Mpulungu;
- a Communication Strategy and Campaign on Safe Migration have been launched to enhance strategies aimed at preventing trafficking in persons as well as to sensitize traditional leaders and the general public to prevent unsafe migration.

*The Committee strongly encourages the Government to continue to take effective measures to ensure that victims of trafficking are identified, including through the National and District Committees on Human Trafficking and the National Referral Mechanism, and provided with adequate protection and assistance. It requests the Government to provide information on the number of victims of trafficking who have been identified and provided protection and assistance at the places of safety.*

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** (Belize, Chad, Congo, Cook Islands, Djibouti, Dominica, Equatorial Guinea, France: French Polynesia, Gambia, Ghana, Greece, Guatemala, Guinea-Bissau, Haiti, Honduras, Hungary, Ireland, Jamaica, Kenya, Kiribati, Lao People's Democratic Republic, Lebanon, Liberia, Madagascar, Republic of Moldova, Mongolia, Myanmar, Namibia, Netherlands: Aruba, Nicaragua, Norway, Oman, Pakistan, Papua New Guinea, Poland, Portugal, Qatar, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Singapore, Solomon Islands, Somalia, South Sudan, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Thailand, Timor-Leste, Togo, Tunisia, Turkmenistan, Uganda, Uzbekistan, Viet Nam, Yemen, Zambia); **Convention No. 105** (Barbados, Belize, Chad, Congo, Cook Islands, Djibouti, Dominica, Equatorial Guinea, Eritrea, Gabon, Gambia, Ghana, Grenada, Guinea-Bissau, Honduras, Hungary, Kazakhstan, Kenya, Kiribati, Lebanon, Liberia, Mauritania, Republic of Moldova, Mongolia, Mozambique, Namibia, Netherlands: Aruba, Pakistan, Papua New Guinea, Philippines, Poland, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Sierra Leone, Solomon Islands, South Sudan, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Thailand, Togo, Turkmenistan, Uzbekistan, Yemen).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 105** (Malawi, Turkey).



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

### Chad

#### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

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

## Congo

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (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 2020, 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.

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or similar practices. Sale and trafficking of children.* In its previous comments, the Committee noted the Government's statement that there is child trafficking between Benin and the Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work. According to the Government, the children are forced to work all day in harsh conditions by their host families, and are subjected to all kinds of hardships. The Committee noted that sections 345, 354 and 356 of the Penal Code lay down penalties for anyone found guilty of the forcible or fraudulent abduction of persons including young persons under 18 years of age. It requested the Government to indicate to what extent sections 345, 354 and 356 of the Penal Code have been implemented in practice. *The Committee requests the Government once again to supply information on the application of sections 345, 354 and 356 of the Penal Code in practice, including, in particular, statistics on the number and nature of offences reported, investigations, prosecutions, convictions and penalties imposed.*

*Article 7(2). Effective and time-bound measures. Clause (b). Removal of children from the worst forms of child labour and ensuring their rehabilitation and social integration. Sale and trafficking of children.* In its previous observations, the Committee noted the Government's statement acknowledging that the trafficking of children between Benin and Congo for the purpose of forcing children to work in Pointe-Noire in trading and domestic work is contrary to human rights. It also noted that the Government has taken certain measures to curb child trafficking, including: (a) the repatriation by the Consulate of Benin of children who have either been picked up by the national police or removed from families; and (b) the requirement at borders (airport) for minors (young person under 18 years of age) to have administrative authorization to leave the territory of Benin. The Committee asked the Government to provide information on the impact of the measures taken with regard to the rehabilitation and social integration of children following their withdrawal from labour. It noted that the Government's report does not contain any information on this subject. *The Committee requests the Government once again to supply information on the time-bound measures taken to remove young persons under 18 years of age from this worst form of child labour and to ensure their rehabilitation and social integration. It also requests the Government to supply information on the impact of these measures.*

*Application of the Convention in practice.* The Committee noted that, according to the concluding observations of the Committee on the Rights of the Child on the initial report of Congo of October 2006 (CRC/C/COG/CO/1, paragraph 85), a study of the root causes and repercussions of trafficking is due to be conducted in the country. *The Committee requests the Government to supply information on the results of this study and to supply a copy of it once it has been prepared.*

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.*

## Djibouti

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2005)**

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 2020, 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 to ensure the effective abolition of child labour; application of the Convention in practice.* In its previous comments, the Committee noted the Decent Work Country Programme (DWCP) 2008–12 for Djibouti, which prioritized, inter alia, the improvement of conditions of work by promoting national and international labour standards, with a particular focus on child labour. The Committee also noted the adoption of the National Strategic Plan for Children in Djibouti (PSNED) for the 2011–2015 period, with the goal of establishing a protective environment conducive to the observance of the fundamental rights of children. The Committee asked the Government to provide information on the implementation of the DWCP and the PSNED and on the results achieved regarding the progressive elimination of child labour. It also asked the Government to provide information on progress made in framing a national policy to combat child labour.

The Committee notes that, according to UNICEF, for the 2002–12 period, 7.7 per cent of children between five and 14 years of age in Djibouti were engaged in activities deemed to be work. The Committee notes the Government's indication in its report that it is not in a position to communicate the results achieved through the PSNED since the studies conducted are still in draft form. The Government also indicates that the DWCP could not be adopted owing to a lack of agreement with the trade unions and it hopes for a resumption of social dialogue, with ILO assistance, with a view to adoption and implementation of the DWCP in the near future. The Committee also notes the "Djibouti Compendium of Statistics" attached to the Government's report and the Government's statement that the Directorate of Statistics and Demographic Studies (DISED) has not undertaken any survey in relation to child labour. *The Committee firmly hopes for a resumption of social dialogue without delay and requests that the*

**Government take the necessary steps to ensure the effective implementation of the DWCP and the PSNED. It requests that the Government provide information on the results achieved regarding the progressive elimination of child labour and on progress made in framing a national policy to combat child labour. Lastly, the Committee again requests that the Government take the necessary measures to ensure that studies on the extent and nature of child labour in Djibouti are conducted in the near future, and that the results are then communicated to the Office.**

*Article 2(1). Scope of application and labour inspection.* The Committee previously noted that, by virtue of section 1 of Act No. 133/AN/05/5ème issuing the Labour Code (hereinafter: Labour Code), the Labour Code applies only to employment relationships. It also noted the Government's indication that the provision on the minimum age for access to work is observed in the formal sector but is not applied effectively in the informal economy. The Committee further noted that, despite new Act No. 199/AN/13/6ème, supplementing Act No. 212/AN/07/5ème establishing the National Social Security Fund, which extends health-care benefits to all self-employed workers in the informal economy, the Government recognized that the lack of structure in the informal economy prevented the identification of issues faced by young workers in the sector.

The Committee notes the Government's indication that it hopes to submit the question of informal work to the National Labour Council, with a particular focus on the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). The Committee recalls that the Convention applies to all branches of economic activity, whether formal or informal, and that it covers all types of employment or work, whether or not it is effected on the basis of a dependent employment relationship, and whether or not it is remunerated. **The Committee therefore requests that the Government take steps to ensure that the protection afforded by the Convention is secured to children under 16 years of age working in the informal economy, particularly by adapting and strengthening the labour inspectorate in order to improve labour inspectors' capacity to identify cases of child labour. It requests that the Government provide information on this matter and also to communicate the results achieved.**

*Article 2(3). Age of completion of compulsory schooling.* The Committee previously noted that, according to section 4 of Act No. 96/AN/00/4ème setting out the policy for Djibouti's education system, the State guarantees education for children from the age of six to 16 years. The Committee also noted that, in 2006, the net primary school enrolment rate was 66.2 per cent and at secondary level the rate was 41 per cent.

The Committee notes that, despite the improvements in school attendance, Djibouti still has a low school enrolment rate and that the goal, established in the PSNED, of achieving a 100 per cent enrolment rate for children in the 6–10 age group by 2015 was not achieved. Indeed, in 2014, according to the UNESCO Institute of Statistics, the attendance rate was 67.39 per cent in primary education and 46.35 per cent in secondary education. **Recalling that compulsory education is one of the most effective means of combating child labour, the Committee requests that the Government intensify its efforts and take measures that will ensure children's participation in compulsory basic schooling, or in an equivalent setting. It requests that the Government provide information on the recent measures taken to increase the school attendance rate, at both primary and secondary levels, so as to prevent children under 16 years of age from working. It further requests that the Government provide recent statistics on the primary and secondary school enrolment rates in Djibouti.**

*Article 3(1). Age of admission to hazardous work.* The Committee previously noted that, according to section 112 of the Labour Code, at the request of a labour inspector, women or young persons between 16 and 18 years of age may not be placed in employment recognized as being beyond their strength by an approved doctor. However, the Committee observed that the national legislation does not appear expressly to establish, as *Article 3(1)* of the Convention requires, a minimum age of 18 years for 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. **Noting once again the lack of information on this matter in the Government's report, the Committee again requests that the Government take the necessary measures to ensure that no person under 18 years of age is authorized to engage in hazardous work, in accordance with Article 3(1). It requests that the Government provide information on the progress made in this regard.**

*Article 3(2). Determination of hazardous types of work.* The Committee recalls that, according to section 110 of the Labour Code, the employment of young persons in domestic work, hotels and bars is strictly prohibited, with the exception of employment strictly in the area of catering. Furthermore, under section 111 of the Labour Code, an order adopted on the proposal of the Minister of Labour and the Minister of Health, after consultation with the National Council for Labour, Employment and Social Security (CONTESS), shall determine the nature of the work and the categories of enterprise prohibited for all women, pregnant women and young people, and the applicable minimum age. The Committee previously asked the Government to adopt such an order on jobs and enterprises prohibited for young people.

The Committee again notes the Government's indication that the order in question has been drawn up and that it has pledged to refer the adoption thereof to CONTESS. It also indicates that no controls have been undertaken to date by the labour inspectorate on hazardous types of work performed by young people. **The Committee again requests that the Government take the necessary steps as a matter of urgency to ensure that the order determining the nature of the work and the categories of enterprise prohibited for young people under 18 years of age is adopted under section 111 of the Labour Code in the near future.**

**Noting the interest expressed by the Government in obtaining technical assistance from the Office, the Committee invites the Government to avail itself of ILO technical assistance in order to facilitate the application 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.**

## **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)**

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 2020, 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(b) and 7(2) of the Convention. Use, procuring or offering of a child for prostitution or illicit activities; effective and time-bound measures. Clause (b). Assistance for removing children from the worst forms of child labour.* The Committee previously noted that the Committee on the Rights of the Child (CRC) once again expressed its concern at the high number of children, particularly girls, involved in prostitution and at the lack of facilities providing services for sexually exploited children.

The Committee notes the Government's indication that it does not have up-to-date information on this matter. **The Committee urges the Government to take effective and time-bound measures to remove children from prostitution, and to ensure their**

*rehabilitation and social integration. It also requests the Government to supply information on the progress achieved in this respect.*

*Articles 3(d) and 4(1). Hazardous work and determination of these types of work. As regards the prohibition on employing children under 18 years of age in work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children, as prescribed by Article 3(d) of the Convention, and also the adoption of a list of hazardous types of work, the Committee refers to its detailed comments relating to the Minimum Age Convention, 1973 (No. 138).*

*Article 6. Programmes of action to eliminate the worst forms of child labour.* The Committee previously noted that in the context of activities carried out under the Decent Work Country Programme (DWCP) for Djibouti for 2008–12, which prioritized, inter alia, the improvement of conditions of work through the promotion of national and international labour standards, with a particular focus on child labour, one of the objectives was that the ILO constituents and the social partners should work together to prevent and eliminate the worst forms of child labour. In this regard, it was planned to formulate and implement a national plan of action for the elimination of the worst forms of child labour.

The Committee notes the Government's indication that the DWCP has not been adopted owing to a lack of agreement between the Government and the trade unions but that it hopes that, with the help of the Office, social dialogue can resume and that the national plan of action for the elimination of the worst forms of child labour will be adopted and implemented. **The Committee firmly hopes that social dialogue will resume as soon as possible. It again requests the Government to take immediate and effective measures to ensure that the national plan of action for the elimination of the worst forms of child labour is formulated, adopted and implemented as soon as possible and to provide information on the progress made in this respect.**

*Article 7(2)(d). Identifying children at special risk.* 1. *HIV/AIDS orphans.* In its previous comments, the Committee noted that despite the measures taken by the Government in favour of orphans and vulnerable children (OVCs), the number of HIV/AIDS orphans had increased (to 8,800 in 2011).

The Committee notes that the Government does not supply any information on the measures taken to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour. However, the Committee notes that according to the UNICEF publication *The state of the world's children 2016: A fair chance for every child*, a total of 6,000 children were orphaned as a result of HIV/AIDS in 2014. It also notes that the Ministry of Health has drawn up a National Health Development Plan (2013–17), which indicates that in the context of the Horn of Africa Partnership (HOAP) to address HIV vulnerability and cross-border mobility, the Government renewed its commitment to intensifying and strengthening inter-ministerial collaboration at the national and subregional levels in order to stop the spread of HIV/AIDS and reverse the current trend of this scourge. **Recalling that HIV/AIDS orphans are at greater risk of involvement in the worst forms of child labour, the Committee again requests the Government to supply information on the impact of measures, policies and plans aimed at preventing the engagement of HIV/AIDS orphans in the worst forms of child labour, and on the results achieved.**

2. *Street children.* The Committee previously noted the Government's statement that most of the children living and working on the streets were of foreign origin and often worked as beggars or shoeshine boys or girls. It also noted that the CRC continued to express concern at the very high number of children still on the streets and at the continued exposure of these children to prostitution, sexually transmissible infections, including HIV/AIDS, economic and sexual exploitation, and violence.

The Committee notes that the Government does not provide any information in this respect. However, it notes that a paper entitled *Humanitarian action for children*, published by UNICEF in 2016, indicates that 200 street children received social assistance through the humanitarian action of UNICEF, with the collaboration of the Government. **Recalling that street children are particularly exposed to the worst forms of child labour, the Committee again urges the Government to take immediate and effective measures to protect them from the worst forms of child labour and ensure their rehabilitation and social reintegration, and also to provide information on progress made in this respect.**

*Application of the Convention in practice.* The Committee previously noted that the CRC observed that there were gaps in the surveys that had been carried out in the areas of poverty, education and health, and that there was insufficient capacity to centralize and analyse population data. The Committee notes the Government's wish to obtain technical assistance from the Office with regard to drawing up statistics. **The Committee requests the Government once again to take steps to ensure the availability of statistics on the nature, extent and trends of the worst forms of child labour, disaggregated by age and gender, and on the number of children covered by the measures giving effect to the Convention.**

*Noting the interest expressed by the Government 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 expects that the Government will make every effort to take the necessary action in the near future.**

## Dominica

### **Minimum Age Convention, 1973 (No. 138) (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 2020, 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(2) of the Convention. Raising the initially specified age for admission to employment or work.* Noting that the Government initially specified a minimum age of 15 years upon ratification, the Committee observes that the Education Act of 1997 provides for a minimum age for admission to work of 16 years of age. **In this regard, the Committee takes the opportunity to draw the Government's attention to the provisions of Article 2(2) of the Convention which provides that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. This allows the age fixed by the national legislation to be harmonized with that provided for at the international level. The Committee would be grateful if the Government would consider sending a declaration of this nature to the Office.**

*Article 3(1). Minimum age for admission to hazardous work.* The Committee previously noted that, according to section 7(1) of the Employment of Women, Young Persons and Children Act, no young person (under 18) shall be employed or work during the night in any public or private industrial undertaking, other than an undertaking in which only members of the same family are employed. However, the Committee observes that there is no other provision which prohibits the employment of young persons in work which is likely to jeopardize their health, safety or morals. **In this regard, the Committee requests the Government to take the necessary measures to ensure that the performance of hazardous work is prohibited for all persons under 18 years of age.**

*Article 3(2). Determination of types of hazardous work.* The Committee notes the Government's statement in its report submitted under the Worst Forms of Child Labour Convention, 1999 (No. 182), in 2009 that the social partners will be consulted for the determination of the list of types of hazardous work. **Recalling that, pursuant to 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, the Committee requests the Government to provide information on any progress made with regard to the determination of the list of types of hazardous work to be prohibited for persons under 18 years.**

*Article 7(3). Determination of types of light work.* The Committee notes that while section 46(3) permits children from the age of 14 to be employed during school vacations (i.e. in light work), but observes that there does not appear to be a determination of the types of light work permitted for these children. In this regard, the Committee recalls that, pursuant to Article 7(3) of the Convention, the competent authority shall determine what light work is and shall prescribe the number of hours during which, and the conditions in which, such employment or work may be undertaken. **The Committee therefore requests the Government to provide information on any measures taken or envisaged to determine the hours during which and the conditions in which light work may be undertaken by children above the age of 14 during vacations from school, pursuant to Article 7(3) of the Convention.**

*Article 9(3). Keeping of registers.* The Committee previously noted that section 8(1) of the Employment of Women, Young Persons and Children Ordinance provided for the keeping of registers or lists by the employer of all persons employed who are less than 16 years of age. In this regard, the Committee recalled that Article 9(3) of the Convention requires the keeping of such registers for all persons who are less than 18 years of age. **Noting an absence of information on this point in the Government's report, the Committee once again requests the Government to take the necessary measures to ensure that registers be kept and made available by the employer in respect of all children under 18 years of age. It requests the Government to provide information on any measures taken in this regard.**

*Application of the Convention in practice.* The Committee notes the Government's statement in its report submitted under Convention No. 182 in 2009 that measures will be taken to broaden the existing mandate of the national inspectorate in order to cover child labour issues, in consultation with the social partners. **The Committee requests the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons, extracts from the reports of inspections services and information on the number and nature of violations detected involving children and young persons.**

**The Committee encourages the Government to take into consideration the Committee's comments on discrepancies between national legislation and the Convention. The Committee invites the Government to consider technical assistance from the ILO to bring its legislation into conformity with the Convention.**

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

## Eritrea

### Minimum Age Convention, 1973 (No. 138) (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 2020, 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 and application of the Convention in practice.* In its previous comments, the Committee expressed its concern regarding the widespread child labour in Eritrea and the lack of data and comprehensive measures to ensure that children are protected from economic exploitation. The Committee also recalls the 2008 concluding observations of the Committee on the Rights of the Child (CRC) (CRC/C/ERI/CO/3, paragraphs 12 and 13), which recommended that the Government adopt a national plan of action for children and requested that the Government, with the support of the ILO, UNICEF and NGOs, develop a comprehensive assessment study and plan of action to prevent and combat child labour.

The Committee notes the Government's indication that it has collected data and information to formulate a national policy and that an upcoming Comprehensive National Child Policy document is expected to strengthen efforts to provide sustained services to children.

The Committee notes with **concern**, however, that despite these preliminary measures, the Government's report describes very little concrete action that has been undertaken to combat child labour, notwithstanding its prevalence in the country. The Committee notes, in this respect, the reports of the UN Human Rights Council (A/HRC/26/L.6 and A/HRC/26/45) in 2014, which continue to highlight child labour in the country, including military conscription, as well as work in hazardous activities such as harvesting and construction. The Committee further notes with **concern** the Government's indication in its fourth periodic report to the CRC (CRC/C/ERI/4, paragraph 22) that, because no case of child labour practices had been filed in Eritrean courts, the Government's efforts to control child labour must have been effective. **Observing with deep concern the continuing widespread child labour in Eritrea, including in hazardous activities, the Committee strongly urges the Government to intensify its efforts to implement concrete measures, such as by adopting a national plan of action to abolish child labour once and for all, in cooperation with the employers' and workers' organizations concerned, as well as strengthening the capacity of the labour inspection system. The Committee also strongly encourages the Government to seek technical assistance from the ILO.**

*Article 2(3) and (4). Age of completion of compulsory schooling and minimum age for admission to employment.* In previous comments, the Committee noted the Government's indication that education is compulsory for eight years (five years of elementary school and three years of middle school), meaning that compulsory education would be completed at 14 years of age.

Nevertheless, the Committee noted its concern at the low school enrolment rates and the significant number of children who leave school prior to completing primary education.

The Committee notes the measures described in the Government's report to provide free education to all school children up to the middle school level as well as its policies, in particular the Nomadic Education Policy, to make education inclusive to all children. The Government further indicates that it endeavours to expand secondary school education and bring those schools closer to rural areas. The Committee also notes the 2013–16 UNICEF Country Programme Document for Eritrea (E/ICEF/2013/P/L.1), which highlights certain measures that the Government has undertaken to improve basic education, including the free elementary education and nomadic education projects.

While taking due note of the Government's efforts, the Committee also notes that, according to the statistical information contained in the draft proposal within the Strategic Partnership Cooperation Framework (SPCF) 2013–16 between the Government and the United Nations system, the net enrolment rate declined from 52.5 per cent in 2005 to 49.6 per cent in 2010, with disparities by location and gender. The Committee further notes the information contained in the Government's fourth periodic report to the CRC (CRC/C/ER/4, paragraph 301 and table 28), according to which student enrolment at the elementary school level decreased by 9 per cent and female enrolment decreased by 8 per cent in 2009–10. **Noting that increasing access to quality basic education is included among the priorities of the SPCF 2013–16, as well as the Eritrea Country Programme with UNICEF, the Committee requests the Government to continue to cooperate with the UN bodies to improve the functioning of, and access to, the education system so as to increase school enrolment rates and reduce school drop-out rates for children at least up to the age of completion of compulsory education, particularly with regard to girl children.**

*Article 3(2). Determination of the types of hazardous work.* The Committee recalls that the Government has been referring to the upcoming adoption of a list of hazardous activities prohibited to young employees under section 69(1) of the Labour Proclamation since 2007. The Committee notes that the Government again repeats this indication but also states that the provisions specified under the current section 69 of the Labour Proclamation are sufficient because they include the list of hazardous activities. The Committee notes, however, that section 69 merely authorizes the minister, by regulation, to issue such a list. Therefore, in lieu of a ministerial regulation, by its own terms, the list contained in section 69 remains hypothetical. **The Committee accordingly urges the Government, without delay, to finalize the ministerial regulation issuing the list of hazardous activities prohibited to persons under the age of 18.**

*Article 9(3). Keeping of registers by employers.* The Committee previously noted the Government's indication that the requirement for employers to maintain a register for persons employed who are under 18 years would be addressed in an upcoming regulation. The Committee notes, however, the Government's latest indication that the Ministry of Labour and Human Welfare is still undertaking studies to develop this regulation. **Noting that the Government has been repeating its aim to adopt implementing legislation since 2007, the Committee urges the Government, without further delay, to take the necessary measures to adopt the regulation concerning the registers kept by employers and to transmit a copy once finalized.**

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.**

## Ethiopia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1999)**

The Committee notes the observations of the International Organisation of Employers (IOE), and the International Trade Union Confederation (ITUC) received on 29 August 2019 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 (CAS) in June 2019, concerning the application by Ethiopia of the Convention.

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the various measures taken by the Government to eliminate child labour, including the Ethiopians Fighting Against Child Exploitation (E-FACE) project; the Community Care Coalition whereby in-kind and cash support is used to prevent child labour; as well as the National Action Plan (NAP 2011–17) to prevent child labour exploitation. The Committee observed 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 (page 63) with 41.7 per cent aged between 5 and 11 years (page xii).

The Committee notes the Government's information in its report that within the framework of the NAP 2011–17 to eliminate child labour, several public awareness-raising programmes were conducted on child labour through conversation and media forums reaching about 1,170,904 people in child labour affected areas and 441 labour inspectors were provided with capacity-building training on prevention of child labour. The Committee also notes the Government's indication that on an average, 39,000 inspections were carried out annually in different establishments with a focus on child labour. The Government also indicates that the grassroots community organizations known as Community Care Coalition have made significant contributions through mobilizing community resources to prevent vulnerable children from entering into child labour by supporting their families and providing shelter. Moreover, a comprehensive child labour policy has been issued in consultation with the social partners and relevant stakeholders to address child labour. The Committee further notes from the document on the E-FACE project that to date this project has impacted the lives of more than 18,000 children engaged in child labour allowing them to attend school and reducing the risk of dropout. **While noting the measures taken by the Government, the Committee urges the Government to continue to take the necessary measures for the progressive elimination of child labour. It requests the Government to continue to provide specific information on the concrete**

*measures taken in this regard 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.*

*Article 2(1). Scope of application.* The Committee previously noted that although section 89(2) of the Labour Law Proclamation No. 42 of 1993 prohibits the employment of persons under 14 years of age, the provisions of the Labour Law did not cover work performed outside an employment relationship. It noted the Government's indication that the Constitution provides for the right of children to be protected from any forms of exploitative labour, without any discrimination, whether employed or self-employed, working in the formal or informal sector. The Committee noted that according to the 2015 Child Labour Survey results, 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. The majority of children performing economic activities were working as unpaid family workers (95.6 per cent) (page xii). Noting with concern the high number of children working in the informal economy, the Committee requested the Government to take the necessary measures to ensure that all children under 14 years of age, particularly children working on their own account or in the informal economy, benefit from the protection laid down by the Convention.

The Committee notes that the Conference Committee, in its concluding observations, urged the Government to strengthen the capacity of the labour inspectorate and competent services, including human, material and technical resources and training, particularly in the informal economy. It also notes that the IOE, in its observations, commended the Government for taking the following steps to address the gaps in the Labour Law, such as: (i) extending the labour advisory services in the informal sector; and (ii) strengthening the labour inspectorate system in the country to make it accessible to all enterprises and workplaces.

The Committee notes the Government's information that measures are being taken to extend labour advisory services in the informal economy with the aim of protecting the rights of all workers, including young workers working without an employment relationship such as work on their own account or in the informal economy. The Government also indicates that efforts are being made to strengthen the labour inspectorate system in the country so as to ensure that such services are effectively accessible to all enterprises and workplaces. *The Committee requests the Government to take the necessary measures to ensure that all children under 14 years of age, particularly 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 requests the Government to continue to take measures to strengthen the capacities and expand the reach of the labour inspectorate so that it can adequately monitor and detect cases of child labour, particularly involving children working in the informal economy, and on their own account. It requests the Government to provide information on any measures taken or progress made in this regard.*

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee noted the Government's indication that it had started the process of drafting legislation which aims at making primary education compulsory. It also noted that according to the Child Labour Survey of 2015, the school attendance rate was 61.3 per cent among children aged 5–17 years. Moreover, 2,830,842 children in the 5–17 years age group (7.6 per cent of the total number of children in the country), dropped out of school with the dropout rate higher among working children (10.9 per cent) than non-working children (4.1 per cent) and among working boys (11.6 per cent) than working girls (9.8 per cent) (pages 86 and 88). The Committee further noted that the United Nations Committee on the Rights of the Child (CRC), in its 2015 concluding observations, expressed concern at: (i) the lack of national legislation on free and compulsory education; (ii) the persistent regional disparities in enrolment rates and the high number of school-aged children, particularly girls, who remained out of school; as well as (iii) the high dropout rates and the significant low enrolment rates in pre-primary education and secondary education (CRC/C/ETH/CO/4-5, paragraph 61).

The Committee notes the statement made by the Government representative of Ethiopia to the Conference Committee that the School Feeding Programme supplemented by specific interventions have significantly improved inclusiveness, participation and achievements in education. The Government representative also stated that a rural–urban Productive Safety Net Programme to improve the income of targeted poor households in the rural and urban areas and the Ethiopian Education Development Roadmap, 2018–2030 to address the gap in access to quality education has been developed. Moreover, Alternative Basic Education modalities are being implemented, such as mobile schools for children of pastoral and semi-pastoral communities. It notes that the Conference Committee, in its conclusions, urged the Government to introduce legislative measures to provide free and compulsory education up to the minimum age of admission to employment of 14 years and ensure its effective implementation as well as to improve the functioning of the educational system through measures to increase the school enrolment rates and decrease dropout rates.

The Committee notes the observations made by ITUC that there is a close link between compulsory education and the abolition of child labour and hence it is essential that Ethiopia introduce compulsory schooling at least up to the minimum age for admission to employment.

The Committee notes the Government's information that it is committed to achieving universal and quality primary education for all school-aged children. Accordingly, it is implementing the Education and Training Policy and the Education Sector Development Programme (ESD) (2016–20) which has led to the achievement of the following results: (i) the number of primary schools has increased from 33,373 in 2014–15 to 36,466 in 2017–18; (ii) the net enrolment rate has increased from

94.3 per cent in 2014–15 to nearly 100 per cent in 2017–18 with a gender parity index of 0.9 per cent; and (iii) the school dropout rates have decreased from 18 per cent in 2008–09 to 9 per cent in 2013–14. The Committee notes, from the UNICEF Annual Report 2018 that while the enrolment rate in primary education has improved (which has tripled from 2000 to 2016), the transition from primary to secondary education remains a bottleneck, with children in rural areas predisposed to dropping out of school and only 25 per cent of secondary school-aged girls attending secondary school. Furthermore, according to the UNICEF report entitled *Multidimensional Child Deprivation in Ethiopia, National Estimates*, 2018, 50 per cent of children aged 5–17 years were deprived of education in 2016. The proportion of children in rural areas aged 7–17 years who are not attending school is more than double that of children residing in urban areas. The Committee finally notes that the United Nations Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) in its concluding observations of March 2019 remained concerned that primary education is still not compulsory and at the high dropout and low completion rates of girls at the primary level (CEDAW/C/ETH/CO/8, paragraph 33(a)). ***Recalling 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 up to the minimum age of admission to employment of 14 years in accordance with Article 2(3) of the Convention. While noting the measures taken by the Government, the Committee strongly encourages the Government to pursue its efforts to increase school enrolment rates, decrease dropout rates and ensure completion of compulsory education with a view to preventing children under 14 years of age from being engaged in child labour.***

***Article 3. Determination of hazardous work.*** The Committee previously noted that the Decree of the Ministry of Labour and Social Affairs of 2 September 1997 concerning the prohibition of work for young workers which contained a detailed list of types of hazardous work was undergoing revision. The Committee observed that, according to the Child Labour Survey, the rate of hazardous work among children aged 5–17 years was 23.3 per cent (28 per cent for boys versus 18.2 per cent for girls). The average hours of work per week performed by children engaged in hazardous work in this age group was 41.4 hours with 50 per cent of them working more than 42 hours per week. The Committee also noted that among children engaged in hazardous work, 87.5 per cent work in the agricultural sector, and 66.2 per cent are involved in other hazardous working conditions such as night work, working in an unhealthy environment or using unsafe equipment at work (page xiii). The Committee urged the Government to strengthen its efforts to ensure that, in practice, children under 18 years of age were not engaged in hazardous work. It also requested the Government to indicate whether a new list of types of hazardous work was adopted and to supply a copy.

The Committee notes the Government's information that the list of activities prohibited to young persons has been revised in consultation with social partners and a directive has been issued by the Ministry of Labour and Social Affairs in 2013 in this regard. It notes the unofficial translated copy of the directive provided by the Government which contains a list of 16 activities which are harmful to the health, safety and well-being of young workers and therefore prohibited. This list includes: work in transport of passengers and goods by road, railway, air and waterways; works related to handling of heavy material; fishing at sea; underground work at mines and quarries; works connected with electric power generation plants or transmission lines; work at elevation in construction; work on production of alcoholic drinks and drugs; work in extremely hot and cold conditions; work exposed to ionizing and non-ionizing, x-rays and ultraviolet rays; work with flammable and explosive materials; work with toxic chemicals and pesticides; and all works that will have adverse effects on the physical and psychological development of young persons. The list also provides the maximum weight limits that could be carried by young persons. ***The Committee requests the Government to provide information on the application in practice of the revised list under the directive of 2013, particularly for hazardous work in agriculture, including statistics on the number and nature of violations reported and penalties imposed. The Committee reminds the Government that it may avail itself of technical assistance from the ILO with respect to the issues raised in its present comment.***

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

## Gabon

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2010)***

***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.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*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.

## Gambia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

*Article 6 of the Convention. Vocational training and apprenticeship.* The Committee previously noted that the Labour Code does not indicate a minimum age for apprenticeship, while sections 50 and 51 of the Children's Act establish that the minimum age at which a child may commence an apprenticeship in the informal sector is 12 years or after completion of basic education. It further noted the Government's information that the minimum age for apprenticeship is 16 years or after completing grade 9, and requested the Government to indicate and to provide a copy of the legal provisions that establish such minimum age. It also requested the Government to provide information on the measures taken or envisaged to ensure that no child under 14 years undertakes apprenticeships in the informal sector. Noting that the Government does not provide the requested information, the Committee recalls that apprenticeships must be regulated by law, and that the law must be applied effectively in practice. Moreover, the minimum age for admission to apprenticeship must be applied in all circumstances and sectors, including in the informal economy (see General Survey on the fundamental Conventions, 2012, paragraph 387). ***The Committee therefore requests the Government to take the necessary measures to establish a minimum age for admission to apprenticeships of at least 14 years, including in the informal sector in conformity with the Convention. It also requests the Government to provide information on the measures taken or envisaged to ensure that no child under 14 years undertakes apprenticeships in the informal sector. The Committee requests the Government to provide information on progress made in this regard.***

*Article 7. Light work.* In its previous comments, the Committee requested the Government to provide information on the outcome of the consultations held with the stakeholders regarding the possibility of adopting provisions to regulate and determine the light work activities performed by children over 12 years of age. The Committee notes the information provided by the Government in its report submitted to the Human Rights Council in July 2019, that children between the age of 12 and 16 are allowed to engage in light work during the daytime, which is defined by the Children's Act 2005 as work which "is not likely to be harmful to the health or development of the child and does not affect the child's attendance at school or capacity of the child to benefit from school work". (A/HRC/WG.6/34/GMB/1, paragraph 108). ***The Committee requests the Government to take the necessary measures to regulate and determine the types of activities, the number of hours and the conditions in which light work may be undertaken by children, as required under Article 7, and to transmit a copy of such legislation once adopted.***

*Article 9(1). Penalties and labour inspectorate.* The Committee previously requested the Government to provide information on the application in practice of section 48 of the Labour Code and section 47 of the Children's Act, including the number and kinds of penalties imposed, as well as to provide information on any details or statistics collected by the Commissioner regarding the employment of children and young persons. The Government indicates in its report that there are no reported cases of child exploitation, no cases of child labour in the formal sector or registered with the Department of Labour and that child labour in the informal sector can be addressed jointly with the Department of Social Welfare, the Ministry of Basic and Secondary Education and local authorities. The Committee notes, however, the information provided by the Government in its report submitted to the United Nations Human Rights Council in July 2019, according to which the enforcement of the law remains a challenge due to several factors, including economic, social and cultural practices and poverty [A/HRC/WG.6/34/GMB/1, para. 110]. The Committee underlines the key role the labour inspectorate plays in implementing the Convention as a public authority which monitors compliance with child labour-related provisions in each country. Weak labour inspection machinery not only reduces the likelihood of the detection of violations related to child labour, but also hinders the appropriate punishment of those responsible (see General Survey, 2012, paragraph 401). ***Recalling that child labour in the informal economy can also be addressed through monitoring mechanisms, including through labour inspection, the Committee requests the Government to take the necessary measures to adapt and strengthen the labour inspection services and to ensure that labour inspectors have received adequate training on child labour issues in order to improve their capacity to detect cases of child labour. The Committee also requests the Government to continue to provide information on the application in practice of section 48 of the Labour Code and section 47 of the Children's Act, on the number and nature of violations recorded by labour inspectors in the course of their work involving children working below the minimum age for admission to employment, including those who are working on their own account or in the informal sector, and on the number and kinds of penalties imposed.***

***The Committee encourages the Government to take into consideration, during the review of the Labour Act 2007 and of the Children's Act 2005, the Committee's comments on discrepancies between national legislation and the Convention, and asks the Government to provide any information on progress made in this regard. 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: 2001)**

*Article 7(2) of the Convention. 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 Government indicates in its report under the Minimum Age Convention, 1973 (No. 138) that it is committed to upholding the right of every person to basic

education, regardless of gender, age, religion or disability. Accordingly, basic education will be open to all. Education at this level will be geared towards the holistic development of the individual for the positive realization of every person's full potential and aspirations. The Education Sector Policy 2016–2030 is the first sector-wide policy written after the repositioning of the former Ministry of Education to focus on Basic and Secondary Education. Some of the initiatives to encourage school enrolment and reduce child labour include the establishment of new schools, construction of additional classrooms and the improvement, rehabilitation and maintenance of existing facilities. The Committee notes also the information provided by the Government in its report submitted to the United Nations Human Rights Council in July 2019, according to which the School Improvement Grant (SIG) has been a positive stride towards the progressive introduction of free education. The SIG covers the cost of stationary, books and school uniforms for children from lower basic, upper basic and senior secondary education levels. The SIG is coupled with the bursary scheme for girls that also provides for uniforms and stationary especially for girls in the rural area. In addition, the Results for Education Achievement and Development (READ) Project supported by the World Bank through the Ministry of Basic and Secondary Education provides free textbooks for both boys and girls in schools. A Conditional Cash Transfer Scheme has also been introduced to provide another form of education with minimum curriculum standards to children and youth who attend non-conventional Islamic schools. The Scheme has been introduced in 17 centres countrywide and aims to provide functional literacy and numeracy coupled with life and livelihood skills. These funds are supplemented by regional initiatives and incentives of various types, including special scholarship packages that cover a wide range of costs from fees, uniforms, and books to mentoring. The Government also engages in public sensitization programmes to encourage parents to make educating their female children, in addition to the male, a priority [A/HRC/WG.6/34/GMB/1, paras 127, 128 and 135]. The Committee further notes that, according to the Education Sector Policy 2016–2030, increased public expenditure on education has led to expanding access and enrolment at all levels of the formal education system, with girls representing over 50 per cent of enrolments in both lower and upper basic education. Policy objectives include increasing the basic education gross enrolment rates and the completion rates in basic education to 100 per cent by 2030, so that every child will have a minimum school career of nine uninterrupted years. However, the Committee notes that, as mentioned in such Policy, in addition to attracting children to school, greater efficiency continues to be required in order to retain a larger proportion of children in basic education. Even though repetition rates have dropped significantly, 26 per cent of 12-year-old girls and 27 per cent of 12-year-old boys do not complete grade 6. Out of those who started grade 1 in 2015, 54 per cent are expected to reach grade 6 and only 43 per cent to reach grade 9. ***Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to intensify its efforts to ensure access to free basic education to all children and to improve the functioning of the education system through measures aimed at increasing the school enrolment and attendance rates and reducing the drop-out rates of both boys and girls at the primary and secondary levels. It requests the Government to continue to provide information on the measures taken or envisaged in this regard, as well as on the results achieved.***

*Clause (b). Provide for the necessary and appropriate assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. Child victims of commercial sexual exploitation.* The Committee previously requested the Government to provide information on the implementation of the National Plan of Action to Combat Sexual Exploitation of Children (NPA-CSEC-II), as well as on the number of children prevented from engaging in or removed from that worst forms of child labour and the number of child victims of commercial sexual exploitation who have benefited from the rehabilitation and reintegration programmes of the Department of Social Welfare (DOSW).

The Committee notes the Government's indication in its report that a series of meetings and sensitizations have been carried out at national, regional and local level, but no data is available. The Committee notes also the information provided by the Government in its combined report on the African Charter on Human and Peoples' Rights for the period 1994 and 2018, of August 2018, that in its efforts to effectively combat child sexual abuse and exploitation, the DOSW reviewed and updated its National Plan of Action Against the Sexual Abuse and Exploitation of Children 2011–2015 in order to strengthen the protective environment for children. The Child Protection Alliance, a child rights coalition in the Gambia, in partnership with the Gambia Tourism Board, has from 2010 to date, sensitized 151 stakeholders (taxi drivers, hotel workers, tourist guides, personnel of the Tourism Security Unit, small-scale entrepreneurs) in the tourism industry on the Code of Conduct of the Gambia Tourism Board for the Protection of Children, the Tourism Offences Act 2003 and the Sexual Offences Act, to ensure greater protection of children from sexual exploitation in tourism. The Gambia Tourism Board, in collaboration with the Child Protection Alliance, launched an electronic signboard with messages on the Gambia's stance against child sex tourism at the arrival lounge of the Banjul International Airport. The Committee notes, however, that the Gambia's National Human Rights Commission, in its submission to the Universal Periodic Review, indicates that the Gambia remained a source and destination country for the trafficking of children for sexual purposes [A/HRC/WG.6/34/GMB/3, para. 43]. ***The Committee therefore urges the Government to strengthen its efforts to ensure that child victims of commercial sexual exploitation and trafficking for that purpose are removed from these worst forms of child labour, rehabilitated and socially integrated. The Committee further requests the Government to provide information on the impact of the measures taken by the relevant governmental agencies, notably under the revised National Plan of Action to Combat Sexual Exploitation of Children, in preventing and combating the commercial sexual exploitation of children and trafficking of children for that purpose.***

*Clause (d). Identify and reach out to children at special risk. HIV and AIDS orphans and other vulnerable children (OVC).* The Committee notes that the National Strategic Plan for HIV and AIDS (2015–2019) aims to increase the percentage of orphans and vulnerable children under 18 years receiving educational and nutritional support from 57 per cent in 2013 to 80 per cent by 2019. A Steering Committee has been established to coordinate the support to OVC. The Committee also notes that the Government adopted a National Social Protection Policy (2015–2025) which foresees the implementation of measures needed to address the specific socio-economic vulnerabilities faced by children affected by HIV and AIDS. According to such policy, due to the impact of HIV and AIDS, the Gambia is home to many orphans and vulnerable children, including children living with HIV and street children. The Committee further notes the data available at the UNAIDS website, which indicates that there were 19,000 orphans due to AIDS aged 0 to 17 in 2018 in the Gambia. ***The Committee requests the Government to scale up its efforts to prevent the engagement of HIV/AIDS orphans and other vulnerable children in the worst forms of child labour. It also requests the Government to provide information on the results achieved through the implementation of the National Strategic Plan for HIV and AIDS (2015–2019) and of the National Social Protection Policy (2015–2025).***

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

## Ghana

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2011)***

*Article 1 of the Convention. National policy and application of the Convention in practice.* The Committee previously noted that National Plan of Action 2009–15 (NPA1) for the elimination of the worst forms of child labour was under review. The Committee requested the Government to continue its efforts to maintain a national plan of action to combat child labour and to submit any finalized plans once they are available.

The Committee notes from the Government's report that a National Plan of Action Phase II on Elimination of the Worst Forms of Child Labour 2017–21 (NPA2) has been approved by the Cabinet and disseminated to various stakeholders for implementation. The Committee notes that according to the NPA2 document, significant gains were made within the framework of the NPA1, including: the introduction of the Ghana Child Labour Monitoring System; the development of the Hazardous Activity Framework (HAF) and the Standard Operating Procedures (SOP) for addressing child labour issues; and the establishment of 100 Community Child Protection Committees and District Child Protection Committees in 40 districts. However, this document indicates that the overall impact of the NPA1 was below expectation and that an estimated 21.8 per cent (1.9 million) children aged 5–17 years are engaged in child labour of which 14.2 per cent (over 1.2 million) are involved in hazardous work. The Committee further notes from the Understanding Children's Work report of 2016 (UCW report) entitled *Child Labour and the Youth decent work deficit in Ghana*, that more than one in five children aged 5–14 years (almost 1.5 million) children are involved in child labour. The Committee must express its ***deep concern*** at the high number of children under the minimum age for admission to work of 15 years who are engaged in child labour, including in hazardous work. ***The Committee urges the Government to intensify its efforts and to take the necessary measures for the progressive elimination of child labour, including within the framework of the NPA2, 2017–2021. It requests the Government to provide specific information on the concrete measures taken in this regard as well as the results achieved. Finally, 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 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).*

*Articles 7(3). Determination of light work activities.* In its previous comments, the Committee noted that Hazardous Child Labour Activity Framework had set out certain conditions for light work for children of 13 years of age. The Committee requested the Government to take the necessary measures to specify the types of light work activities that are permitted for young persons between the ages of 13 and 15.

The Committee notes that the Government's report does not provide any information in this regard. ***The Committee therefore once again requests the Government to take the necessary measures to determine the types of light work activities permitted for young persons between the ages of 13 and 15, as required by Article 7(3) of the Convention. It also requests the Government to indicate the measures taken or envisaged to adopt the conditions of light work provided by the Hazardous Child Labour Activity Framework into law and to provide a copy of any regulations or text giving effect to these conditions.***

*Labour inspectorate.* In its previous comments, the Committee noted the Government's indication concerning the lack of capacity and logistical deficiencies for labour inspection and its commitment in establishing the necessary systems and infrastructure to enable the effective inspection of workplaces liable to inspection. It requested the Government to provide information on the measures taken in this regard.

The Committee notes the information provided by the Government on the basic structure and functioning of the labour inspection system in the country. It also notes the Government's information that labour inspection forms have been reviewed to include triggers that will require inspectors to collect more information on children detected to be employed. The Committee further notes the Government's statement that no contravention regarding the employment of children in the formal sector was reported. However, children are engaged in work in the informal sector and that measures are being taken to sensitize this sector through the social partners. In this regard, the Committee notes that according to the UCW report, the largest share of children in child labour work in the agricultural sector (80 per cent) followed by services and manufacturing. The Committee further recalls its reference under the Labour Inspection Convention, 1947 (No. 81), adopted in 2019, to the statement in Ghana's National Employment Policy that despite efforts to revamp the labour administration system, challenges persist, including ineffective labour inspection, inadequate staff for labour administration institutions and inadequate logistics for inspection and enforcement. ***The Committee draws the Government's attention to its most recent comments under Convention No. 81 and urges it to strengthen the functioning of the labour inspectorate by increasing the number of labour inspectors as well as by providing them with additional means and financial resources, in order to ensure the effective supervision of the provisions giving effect to the Convention. Furthermore, it urges the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspection services to ensure the monitoring of child labour in the informal economy in order to ensure that these children are afforded the protection set out in the Convention. It requests the Government to provide information on the measures taken in this regard and on the results achieved.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*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.* The Committee previously noted the Government's information that an Anti-Human Trafficking Unit had been established under the Human Trafficking Act, 2005. It also noted from the written replies of the Government to the list of issues in relation to the initial report to the United Nations Human Rights Committee regarding the International Covenant on Civil and Political Rights of 13 June 2016 that, the Human Trafficking Legislative Instrument (L.I. 2219) was passed in November 2015 in order to aid effective implementation of the Human Trafficking Act (CCPR/C/GHA/Q/1/Add.1, paragraph 74). The Committee requested the Government to provide information on the application of the Human Trafficking Act and the Human Trafficking Legislative Instrument, 2015 in practice.

The Committee notes with *regret* the absence of information in the Government's report. The Committee notes from the document on the National Plan of Action (NPA) for the Elimination of Human Trafficking in Ghana 2017–21 that the Anti-Human Trafficking Unit of the Ghana Police Service conducts investigations of cases of trafficking of persons and seeks to prosecute offenders. Moreover, the Anti-Human Smuggling and Trafficking in Persons Unit of the Ghana Immigration Service investigates and arrests human trafficking and smuggling offenders while also building the capacities of immigration officials to detect such cases. However, according to this document Ghana continues to be a source, transit and destination country for trafficking of persons, while trafficking of girls and boys for labour and sexual exploitation are more prevalent within the country than transnational trafficking. The document further indicates that children are subjected to being trafficked into street hawking, begging, portering, artisanal gold mining, quarrying, herding and agriculture. ***The Committee requests the Government to take the necessary measures to ensure that, in practice, thorough investigations and robust 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 investigations, prosecutions, convictions and penal sanctions applied by the Anti-Human Trafficking Unit and the Anti-Human Smuggling and Trafficking in Persons Unit for the offence of trafficking in persons under 18 years of age, in accordance with the provisions of the Human Trafficking Act.***

*Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously noted that section 101A of the Criminal Offences Act, 1960 (Act 29), as amended by the Criminal Offences (Amendment) Act of 2012 establishes penalties for the sexual exploitation of persons defined as the use of a person for sexual activity that causes or is likely to cause serious physical and emotional injury or in prostitution or pornography. The Committee observed that this provision only applies to children under 16 years of age. It therefore requested the Government to take the necessary measures to ensure that its legislation is amended in order to protect all persons under the age of 18 years from the production of pornography and pornographic performances.

The Committee notes with *regret* that the Government has not provided any information in this respect. The Committee therefore once again recalls that, in accordance with *Article 3(b)* of the Convention, the use, procuring or offering of children for the production of pornography and for pornographic performance is one of the worst forms of child labour and that under the terms of *Article 2*, the term "child" shall apply to all persons under the age of 18. ***The Committee therefore urges the Government to take the necessary measures to bring its legislation into conformity with Article 3(b) of the Convention in order to ensure that all children under the age of 18 years are protected from the offences related to the use, procuring or offering of children for the production of pornography and for pornographic performances. The Committee also requests the Government to provide information on the application of section 101A of the Criminal Offences Act, 1960 in practice, including the number of infringements reported, investigations, prosecutions, convictions and penalties applied in this regard.***

*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.* In its previous comments, the Committee noted with concern the significant number of children below 18 years of age engaged in hazardous conditions of work in the agricultural sector, with an estimated 10 per cent of them working in cocoa-specific hazardous activities. It urged the Government to take the necessary measures to eliminate hazardous child labour in the cocoa industry.

The Committee notes the Government's information in its report that the Government, through the Ghana Cocoa Board and in collaboration with other social partners such as the International Cocoa Initiatives, WINROCK, and the World Cocoa Foundation have carried out a number of activities aimed at preventing child labour in the cocoa sector. These measures include: sensitization of staff and farmers in the cocoa growing communities; withdrawal and rehabilitation of children found in hazardous child labour conditions; and the provision of education and health facilities to such children. The Committee also notes from the ILO publication on *Good practices and lessons learned of the ILO-IPEC Cocoa Communities Project (CCP)*, 2015 that the project which was implemented in 40 communities in seven districts of Ghana, focused mainly on social mobilization and community action planning, promotion of quality education, sustainable livelihoods for households, and child labour monitoring. It notes from a report by Understanding Children's Work (UCW) entitled *Child Labour and the Youth Decent Work Deficit in Ghana, 2016* that under the CCP project, over 5,400 children in or at risk of child labour were provided with educational or vocational services and more than 2,200 households were reached with livelihood services. The Committee, however, notes from a UCW report of 2017, entitled *Not Just Cocoa: Child labour in the agricultural sector in Ghana* that the incidence of children's employment in cocoa appears to have risen faster than their employment elsewhere. Almost 9 per cent of all children (about 464,000 children) in the principal cocoa growing regions are involved in child labour in cocoa, of whom 84 per cent (294,000 children) are exposed to hazardous work, resulting in injuries, including serious ones. The majority of these children are working as unpaid family workers. The Committee must express its **deep concern** at the high number of children engaged in hazardous types of work in cocoa farming. **The Committee accordingly urges the Government to intensify its efforts to prevent children under 18 years of age from being engaged in hazardous types of work in this sector. It requests the Government to provide information on the measures taken in this regard as well as the measures taken to ensure that child victims of hazardous types of work are removed from such work and rehabilitated, particularly by ensuring their access to free basic education and vocational training.**

*Article 4(1) and (3). Determination and revision of the list of hazardous types of work.* The Committee previously noted the Government's indication that it envisaged to review and update as necessary section 91 of the Children's Act, including the list of the types of hazardous work so as to be in compliance with the Convention. It noted that the National Steering Committee of the Child Labour Unit (CLU) had validated a list of hazardous types of work under the Hazardous Child Labour Activity Framework, entitled the *Ghana Hazardous Child Labour List (GHAHCL)*, which had not yet been adopted as law.

The Committee notes the Government's statement that the process for comprehensive review on hazardous activities has begun and that measures are being taken to adopt and incorporate the GHAHCL into the Children's Act. **Noting that the Government has been referring to the revision of the list of hazardous types of work since 2008, the Committee urges the Government to take the necessary measures, without delay, to ensure the finalization and adoption of the GHAHCL and its incorporation into the Children's Act. It requests the Government to provide information on any progress made in this regard and to provide a copy, once it has been 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 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.* The Committee previously noted the information from a study carried out by ILO-IPEC that children are engaged in hazardous fishing activities and are confronted with poor working conditions. Among the children engaged in fishing activities, 11 per cent were aged 5–9 years and 20 per cent were aged 10–14 years. Furthermore, 47 per cent of children engaged in fishing in Lake Volta were victims of trafficking, 3 per cent were involved in bondage, 45 per cent were engaged in forced labour and 3 per cent were engaged in sexual slavery. Expressing its deep concern at the prevalence of children who have been trafficked or sold into fishing activities, or are otherwise engaged in hazardous fishing activities in the Lake Volta region, the Committee urged the Government to strengthen its efforts to ensure the removal of children from this worst form of child labour and to provide them with appropriate support services for their rehabilitation and social integration.

The Committee notes with **deep regret** the absence of information in the Government's report on this point. The Committee notes from the International Organization for Migration-Ghana 2018 Review that the shelter dedicated to child victims of trafficking has been renovated and opened. About 40 children who were recently removed from trafficking situations were housed in this shelter. These children were provided assistance including psychosocial counselling, family tracing and nutritional feeding. The Committee, however, notes from the document concerning the National Plan of Action (NPA) for the Elimination of Human Trafficking in Ghana 2017–21 that boys and girls are trafficked into forced labour in fishing and the domestic service, in addition to sex trafficking which is most prevalent in the Volta region and in the oil-producing western region. This document also indicates that across the 20 communities in the Volta and central regions, 35.2 per cent of households consisted of children who had been subjected to trafficking and exploitation primarily in the

fishing industry and domestic servitude. The Committee *deplores* the significant number of children along the Volta and central regions of Ghana, who are subjected to trafficking, mainly for exploitation in the fishing industry and domestic servitude. ***The Committee therefore urges the Government to take effective and time-bound measures, including through the NPA for the Elimination of Human Trafficking, 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 requests the Government to provide information on the measures taken in this regard and the results achieved in terms of the number of child victims of trafficking who have been removed and rehabilitated. Please provide data disaggregated by gender and age.***

2. *Trokosi system.* The Committee previously noted that, despite the Government's efforts to withdraw children from *trokosi* (a ritual in which teenage girls are pledged to a period of service at a local shrine to atone for another family member's sins), the situation remained prevalent in the country. It also noted that the United Nations Human Rights Committee in its concluding observations of 9 August 2016 (CCPR/C/GHA/CO/1, paragraph 17) expressed concern about the persistence of certain harmful practices, including the *trokosi* system, notwithstanding their prohibition by law. The Committee strongly urged the Government to take immediate and effective measures to prevent the engagement of children into *trokosi* ritual servitude and to put an end to this traditional practice as a matter of urgency.

The Committee notes with *deep regret* the absence of any information in the Government's report on its programmatic measures to prevent and remove children from the *trokosi* system. ***The Committee therefore once again urges the Government to indicate the measures taken or envisaged to protect children from the practice of trokosi system as well as to withdraw child victims of such practices and to provide for their rehabilitation and social integration. It once again requests the Government to provide information on the number of children under 18 years of age who are affected by the trokosi system in the country, and on how many have been removed from this system and rehabilitated.***

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

***[The Government is asked to supply full particulars to the Conference at its 109th Session and to reply in full to the present comments in 2020.]***

## Guyana

### Minimum Age Convention, 1973 (No. 138) (ratification: 1998)

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 for the elimination of child labour. National action plan.* The Committee previously noted that the Government reiterated its commitment to adopting a national policy designed to ensure the effective abolition of child labour in the country since 2001. The Committee also noted that, although the Government undertook a number of policy measures aimed at tackling child labour through education programmes, in particular under the ILO–IPEC project entitled “Tackle child labour through education” (TACKLE project), it continued to indicate that a National Plan of Action for Children (NPAC) was under development. The Committee notes that the Government's report does not contain any new information in this regard. ***The Committee therefore once again urges the Government to strengthen its efforts to finalize the NPAC and to provide a copy of it in the very near future. Furthermore, noting the Government's previous indication that the National Steering Committee on Child Labour – which had initiated and drafted a national action plan to eliminate and prevent child labour – is no longer functioning, the Committee requests the Government to provide updated information on the measures taken or envisaged to finalize this process.***

*Article 3(3). Authorization to work in hazardous employment from the age of 16 years.* In its previous comments, the Committee observed that section 6(b) of Act No. 9 of 1999 on the employment of young persons and children (hereafter Act No. 9 of 1999) grants the Minister discretion to authorize, through regulations, the engagement of young persons between the ages of 16 and 18 years in hazardous work. The Committee also observed that, although sections 41 and 46 of the Occupational Safety and Health Act, 1997 (OSHA), aim to prevent young persons from undertaking employment activities that could impede their physical health or emotional development, the Government had identified difficulties in monitoring and enforcing those provisions. The Government accordingly indicated that Act No. 9 of 1999 would be amended to ensure that the protections afforded under the Act are extended to all young persons under the age of 18 years.

The Committee noted that the Government's previous report did not contain any new information and merely stated that no ministerial regulations had been issued and that the OSHA provisions ensure that young persons between 16 and 18 years who are employed in hazardous work receive adequate specific vocational training. However, the Committee noted the inadequate measures for monitoring and enforcing the OSHA provisions and that, notwithstanding the significant number of children involved in hazardous work, only three such cases had been reported to the Government's reporting mechanism.

The Committee notes with *deep concern* that the Government's report provides no new information concerning the process of amending Act No. 9 of 1999, despite its repeated commitment over the years to do so. It once again draws the Government's attention to paragraph 381 of the 2012 General Survey on the fundamental Conventions, which stresses that compliance with *Article 3(3)* of the Convention requires that any hazardous work for persons from the ages of 16 to 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 accordingly once again urges the Government to take measures to amend Act No. 9 of 1999 in the near future so as to ensure conformity with Article 3(3) of the Convention by providing adequate protection to young persons between the ages of 16 and 18, and to supply a copy of the amendments once they have been finalized. Moreover, recalling the Government's indication that efforts are under way with the tripartite partners to include additional areas of work on the hazardous work list, the Committee requests the Government to supply a copy of this amended list once it becomes available.***

*Article 9(3). Keeping of registers.* Following its previous comments, the Committee notes the Government's indication that section 86(a) of the OSHA, Chapter 99:10, provides for the obligation of employers of industrial establishments to record, and keep in a register, the prescribed particulars of all employees under the age of 18 years. **The Committee requests that the Government indicate which provisions establish the same obligation for the employment of young persons under 18 years of age in non-industrial undertakings.**

*Labour inspection and practical application of the Convention.* The Committee previously noted the results of the Multiple Cluster Indicator Survey identifying a high percentage of working children in the country. The Committee also noted the indication of the International Trade Union Confederation (ITUC) that labour inspectors fail to effectively enforce the applicable legislation and that child labour was particularly prevalent in the informal economy.

In response, the Government simply indicated that its labour inspectors routinely conduct workplace inspections and that there had been no evidence of child labour. Nevertheless, the Committee noted a three-year programme which aimed to, among others, strengthen the capacity of national and local authorities in the formulation, implementation and enforcement of the legal framework on child labour and which would include a focus on child labour in the informal economy. **Noting the absence of information provided in this respect, the Committee once again requests that the Government strengthen its efforts to combat child labour, including in the informal economy, and to provide information on the results achieved in this regard. Furthermore, recalling that the Government is establishing a baseline survey on child labour, the Committee again requests the Government to provide information concerning the results of the survey.**

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

## Haiti

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2007)**

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP) received on 4 September 2019. **The Committee requests the Government to provide its comments in this respect.**

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 2020, 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 Confederation of Public and Private Sector Workers (CTSP) received on 30 August 2017 and 29 August 2018, concerning the weakness of the law enforcement bodies in combating trafficking in children, and the absence of rehabilitation and reintegration measures for *restavèks* children (child domestic workers).

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 with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. The Committee hopes that this technical assistance will be provided without delay.

The Committee notes with **concern** that the Government's report has not been received. It is therefore bound to repeat its previous comments initially made in 2015.

The Committee notes that the Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons has been adopted.

*Article 3 of the Convention. Worst forms of child labour. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children.* In its previous comments, the Committee noted that, according to the report of the United Nations Special Rapporteur on contemporary forms of slavery, a new trend has been observed with regard to the employment of children as domestic workers (designated by the Creole term *restavèks*). This consists of the emergence of persons who recruit children from rural areas to work as domestic servants in urban families and outside the home in markets. The Special Rapporteur noted that this new trend has caused many observers to describe the phenomenon as trafficking, since parents are now handing their children over to strangers, whereas previously they entrusted the children to relatives. The Committee noted the observations of the International Trade Union Confederation (ITUC) that smuggling and trafficking in children was continuing, particularly towards the Dominican Republic. The ITUC has gathered serious eyewitness reports of sexual abuse and violence, even including murder, against young women and young girls who have been trafficked, particularly by Dominican military personnel and expressed concern at the fact that there does not appear to be a law under which those responsible for trafficking in persons can be brought to justice and that a draft legislation was to be adopted by the Parliament.

The Committee notes with **interest** the adoption of Law No. CL/2014-0010 of 2 June 2014 on the fight against trafficking in persons. The Law provides that trafficking in children, meaning the procuring, enlistment, transfer, transportation, accommodation or reception of a child for the purposes of exploitation constitutes an aggravating circumstance giving rise to life imprisonment (sections 11 and 21). The Committee notes, however, that, according to its 2014 concluding observations (CCPR/C/HTI/CO/1, paragraph 14), the Human Rights Committee remains concerned about the continuing exploitation of *restavèks* children and the lack of statistics on, and results from, the investigations into the perpetrators of trafficking. Similarly, the Committee notes that, according to the 2015 report of the independent expert on the human rights situation in Haiti (A/HRC/28/82, paragraph 65 with reference to A/HRC/25/71, paragraph 56), the *restavèks* phenomenon is the consequence of the weakness of the rule of law and those children are systematically unpaid, subjected to forced labour, and exposed to physical and/or verbal violence. Their number was estimated at 225,000 by UNICEF in 2012. **The Committee, therefore, urges the Government to take the necessary measures to ensure the effective implementation of Law No. CL/2014-0010, in particular in ensuring that in-depth investigations and effective prosecutions are completed with regard to perpetrators of trafficking of children under 18 years of age. The Committee also requests the Government to provide statistical data on the application of the law in practice, including the number and nature of the violations reported, investigations, prosecutions, convictions and the penal sanctions applied.**

*Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child domestic labour.* In its previous comments, the Committee noted the situation of hundreds of thousands of *restavèk* children who are often exploited under

conditions that qualify as forced labour. It noted that in practice many of these children, some of whom are only 4 or 5 years old, are the victims of exploitation, are obliged to work long hours without pay, face all kinds of discrimination and bullying, receive poor lodging and food and are often victims of physical, psychological and sexual abuse. In addition, very few of them attend school. The Committee also noted the repeal of Chapter IX of Title V of the Labour Code, relating to children in service, by the Act of 2003 for the prohibition and elimination of all forms of abuse, violence, ill-treatment or inhumane treatment of children (the Act of 2003). It noted that the prohibition set out in section 2(1) of the Act of 2003 covers the exploitation of children, including servitude, forced or compulsory labour, forced services and work which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children, without however establishing penalties for violations of its provisions. The Committee noted that the repealed provisions included section 341 of the Labour Code, under which a child from the age of 12 years could be entrusted to a family to be engaged in domestic work. The Committee nevertheless observed that section 3 of the Act of 2003 provides that a child may be entrusted to a host family in the context of a relationship of assistance and solidarity.

The Committee noted previously that the Special Rapporteur, in her report, expressed deep concern at the vagueness of the concept of assistance and solidarity and considered that the provisions of the Act of 2003 allow the practice of *restavèk* to be perpetuated. According to the report of the Special Rapporteur, the number of children working as *restavèk* is between 150,000 and 500,000 (paragraph 17), which represents about one in ten children in Haiti (paragraph 23). Following interviews with *restavèk* children, the Special Rapporteur ascertained that all of them were given heavy workloads by their host families, which were often incompatible with their full physical and mental development (paragraph 25). Moreover, the Special Rapporteur was told that these children are often ill-treated and subjected to physical, psychological and sexual abuse (paragraph 35). Representatives of the Government and of civil society pointed out that cases of children being beaten and burnt were routinely reported (paragraph 37). The Committee noted that, in view of these findings, the Special Rapporteur described the *restavèk* system as a contemporary form of slavery.

The Committee notes the ITUC's allegations that the earthquake of 12 January 2010 resulted in an abrupt deterioration in the living conditions of the population of Haiti and increasingly precarious working conditions. According to the ITUC, an increasing number of children are engaged as *restavèk* and it is highly probable that their conditions have deteriorated further. Many of the eyewitness accounts gathered by the ITUC refer to extremely arduous working conditions, and exploitation is often combined with degrading working conditions, very long hours of work, the absence of leave and sexual exploitation and situations of extreme violence.

The Committee notes the Government's recognition that the engagement of *restavèk* children in domestic work is similar to forced labour. It once again expresses **deep concern** at the exploitation of children under 18 years of age in domestic work performed under conditions similar to slavery and in hazardous conditions. It once again reminds the Government that, under the terms of *Article 3(a) and (d)* of the Convention, work or employment by children under 18 years of age under conditions that are similar to slavery or that are hazardous comprise the worst forms of child labour and, under the terms of *Article 1*, are to be eliminated as a matter of urgency. **The Committee requests the Government to take immediate and effective measures to ensure in law and practice that children under 18 years of age are not engaged as domestic workers under conditions similar to slavery or in hazardous conditions, taking into account the special situation of girls. In this respect, it urges the Government to take the necessary measures to amend the provisions of the national legislation, and particularly section 3 of the Act of 2003, which allow the continuation of the practice of *restavèk*. The Committee also requests the Government to take the necessary measures to ensure that in-depth investigations are conducted and effective prosecutions of persons subjecting children under 18 years of age to forced domestic work or to hazardous domestic labour, and that sufficiently effective and dissuasive penalties are imposed in practice.**

*Article 5. Monitoring mechanisms. Child protection brigade.* The Committee notes the ITUC's allegation that a child protection brigade (BPM) exists in Haiti protecting the borders. However, the ITUC indicates that the corruption of officials on both sides of the border has not been eradicated and that the routes for trafficking in persons avoid the four official border posts and pass through remote locations where more serious situations of abuse against the life and integrity of migrants probably occur.

The Committee notes the Government's indication that the BPM is a specialized police unit which arrests traffickers, who are then brought to justice. However, the Government adds that, during judicial inquiries, procedural issues are often used by those charged to escape justice. The Committee is bound to express **concern** at the weakness of the monitoring mechanisms in preventing the phenomenon of trafficking in children for exploitation. **The Committee requests the Government to take the necessary measures to strengthen the capacity of the BPM to monitor and combat trafficking in children under 18 years of age and to bring those guilty to justice. It requests the Government to provide information on the measures adopted in this respect and the results achieved.**

*Article 7(2). Effective and time-bound measures. Clause (b). 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. Sale and trafficking.* In its previous comments, the Committee noted that, according to the United Nations Office on Drugs and Crime report of February 2009: *Global Report on Trafficking in Persons*, no system exists to provide the victims of trafficking with care or assistance, nor are there any reception centres for victims of trafficking. It also noted that the Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 26), expressed concern at the lack of reception centres for women and girls who are victims of trafficking.

The Committee notes the ITUC's allegations that there is a public system of care and assistance for persons who are victims of trafficking. The reports gathered by the ITUC indicate that victims are referred to the police forces, which relay them to the Social Welfare and Research Institute (IBESR), which then places them in reception centres.

The Committee notes the Government's indication that a pilot social protection programme was envisaged, but that the earthquake of 12 January 2010 undermined the implementation of the programme. **The Committee urges the Government to take effective measures for the provision of the necessary and appropriate direct assistance for the removal of child victims of sale and trafficking and for their rehabilitation and social integration. In this respect, it requests the Government to provide information on the number of children under 18 years of age who are victims of trafficking and who have been placed in reception centres through the police forces and the IBESR.**

*Clause (d). Identifying and reaching out to children at special risk. Restavèk children.* In its previous comments, the Committee noted the existence of programmes for the reintegration of *restavèk* children established by the IBESR in cooperation with various international and non-governmental organizations. It noted that these programmes focus on reintegration in the family setting with a view to promoting the social and psychological development of the children concerned. However, it noted that the Committee on the Rights of the Child, in its concluding observations, had expressed deep concern at the situation of *restavèk*

children placed in domestic service and recommended that the Government take urgent steps to ensure that *restavèk* children are provided with physical and psychological rehabilitation and social reintegration services (CRC/C/15/Add.202, 18 March 2003, paragraphs 56 and 57).

The Committee notes the ITUC's indications that it has been informed of initiatives for the reintegration of *restavèk* children implemented, among others, with the support of UNICEF and the International Organization for Migration (IOM). While welcoming these initiatives, the ITUC calls on the Government to ensure that these programmes continue to be combined with measures intended to improve the living conditions of the families of origin of the children.

The Committee notes the Government's indication that cases of the ill-treatment of children in domestic service are taken up by the IBESR, which is responsible for placing them in families for the purposes of their physical and psychological rehabilitation. However, the Government recognizes that there are still only a few such cases. ***The Committee urges the Government to intensify its efforts to ensure that restavèk children benefit from physical and psychological rehabilitation and social integration services in the framework of programmes for the reintegration of restavèk children or through the IBESR.***

*Article 8. International cooperation. Sale and trafficking of children.* The Committee previously noted that the Ministry of Social Affairs and Labour, in cooperation with the Ministry of Foreign Affairs, was studying the problem of the exploitation of persons in sugar cane plantations in the Dominican Republic and of children reduced to begging in that country, and intends to engage in bilateral negotiations with a view to resolving the situation. It also noted that the CEDAW, in its concluding observations (CEDAW/C/HTI/CO/7, 10 February 2009, paragraph 27), encourages the Government "to conduct research on the root causes of trafficking and to enhance bilateral and multilateral cooperation with neighbouring countries, in particular the Dominican Republic, to prevent trafficking and bring perpetrators to justice".

The Committee notes once again that the Government's report does not contain information on this subject. ***It once again requests the Government to provide information in its next report on the progress made in the negotiations for the adoption of a bilateral agreement with the Dominican Republic.***

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.***

## Iraq

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

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 also raising other matters in a request addressed directly to the Government.

## Jamaica

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2003)***

*Article 3(2) of the Convention. Determination of hazardous work.* The Committee previously noted that the draft list of types of hazardous work prohibited for persons below 18 years of age which was developed in consultation with the social partners would be included in the regulations of the new Occupational Safety and Health Act (OSH Act). It also noted the Government's indication that, pending the adoption of the OSH Act, improvements were being made to this list to make it more comprehensive. The Committee urged the Government to take the necessary measures to ensure the adoption of this list of hazardous work prohibited to children.

The Committee notes the Government's information in its report that the National Steering Committee on Child Labour has finalized the Hazardous Work List in April 2019 and that it is in the final stage of getting appended to the Child Care and Protection Act (CCPA) as well as to the OSH Bill which is currently being considered by a Joint Select Committee of the Houses of Parliament. ***Noting that the Government has been referring to the compilation and adoption of this list since 2006, the Committee urges the Government to take the necessary measures to ensure the adoption, without delay, of the list of types of hazardous work prohibited for persons under 18 years of age, either with the CCPA or OSH Bill. It requests the Government to provide information on any progress made in this regard and to provide a copy once it has been adopted.***

*Article 7(3). Determination of light work.* In its previous comments, the Committee noted that section 34(1) and (2) of the CCPA permits the employment of a child between 13 and 15 years of age in an occupation included in a list of prescribed occupations, consisting of light work considered appropriate by the minister, and specifying the number of hours during which and the conditions under which such a child may be so employed. In this regard, the Government indicated that a draft list of occupations constituting light work was being examined by a panel consisting of safety inspectors, workers' and employers' representatives and would be included in the regulations of the new OSH Act.

The Committee notes the Government's indication that the Light Work List has been finalized through consultations with the members of the National Steering Committee on Child Labour and that amendments to the respective legislation to which it shall be appended will be completed at the soonest possible time. ***The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure the adoption of the list of light work activities permitted for children between 13 and 15 years of age. It requests the Government to provide information on any progress made in this regard and to provide a copy once it has been adopted.***

*Article 9(3). Registers of employment.* The Committee previously noted that the available texts of legislation did not contain provisions requiring an employer to keep registers and documents of persons employed or working under him/her. It noted the Government's indication that the CCPA was being reviewed and would include provisions prescribing employers to keep records of children employed for artistic performances and requiring a person employing a child to notify and provide the Child Labour Unit of the Ministry of Labour and Social Security with relevant details in order to receive the grant of an exemption permit.

The Government states that the CCPA is being amended to include provisions in accordance with *Article 9(3)* of the Convention. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the amendments to the CCPA will include provisions prescribing registers to be kept by employers hiring children under 18 years of age, in accordance with Article 9(3) of the Convention, and that it will be adopted without delay. It requests the Government to provide information on any progress made in this regard, and to provide a copy once it has been adopted.***

*Labour inspection and the application of the Convention in practice.* The Committee previously noted the Government's indication that the draft OSH Act would replace the Factories Act and provide an improved framework for labour inspectors with regard to monitoring cases of child labour in sectors where they hitherto had limited powers, including the informal sector. It also noted the Government's information that in the framework of the adoption of the new OSH Act, capacity-building workshops had been conducted for labour inspectors in order to provide an update on their new roles and responsibilities under the new Act. It noted however that labour officers' powers of inspection are limited to commercial buildings and factories, which greatly restricts their capacity to monitor child labour in the informal economy. The Committee urged the Government to ensure the adoption of the draft OSH Act and to continue to intensify its efforts to strengthen the capacity and expand the reach of the labour inspectorate to informal economy.

The Committee notes the Government's information that the Ministry of Labour and Social Security continues to provide training, workshops and sensitization sessions aimed at preparing labour inspectors to carry out their functions under the impending OSH Act. The Committee however notes from an ILO publication entitled *Child labour and the Youth Decent Work Deficit in Jamaica, 2018*, that expanding the Government's actual capacity to monitor formal workplaces remains a major challenge, and unregistered businesses in the informal economy are largely outside the formal inspection regime. The Committee notes that according to the report of the Jamaican National Youth Activity Survey, 2016, 5.8 per cent of children (38,000) between the ages of 5 and 17 years are engaged in child labour. Among these, 68.6 per cent of children (26,000) are involved in hazardous work. A vast majority of children are employed in private households (50.1 per cent), followed by wholesale and retail (20.7 per cent), and the agriculture and fishing sectors (17.4 per cent). The Committee notes with *concern* that a significant number of children are engaged in child labour, including in hazardous work. **The Committee accordingly urges the Government to intensify its efforts to ensure the effective elimination of child labour, particularly in the informal economy and in hazardous conditions. In this regard, it strongly encourages the Government to intensify its efforts to strengthen the capacity and expand the reach of the labour inspectorate, including through the allocation of additional resources, in monitoring child labour in the informal economy. It requests the Government to continue to provide information on the measures taken in this regard and the results achieved.**

*The Committee expresses the hope that the Government will continue to take into consideration the Committee's comments while revising the CCPA and the OSH Act. It further expresses the firm hope that the revised legislations will be adopted without delay.*

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2003)**

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution.* In its previous comments, the Committee noted the various provisions under the Sexual Offences Act which criminalize sexual offences against children, including: section 18(1)(a) which prohibits procuring a child under the age of 18 years for prostitution; and section 10(1) which prohibits any sexual relations with persons under the age of 16 years. The former offence entails a maximum penalty of imprisonment for 15 years and fine and the latter a penalty of life imprisonment. However, the Committee observed that there appeared to be no provision criminalizing the use of a child by a client for prostitution and requested the Government to take the necessary measures to enact provisions prohibiting such offences.

The Committee notes the Government's reference, in its report, to section 39 of the Child Care and Protection Act (CCPA), 2004, which provides for penalties to any person who employs a child under the age of 18 years in a night club or in any manner, uses a child for purposes contrary to decency or morality. Persons committing such offences shall be liable to a fine not exceeding 1 million Jamaican dollars (US\$7,128) or one year imprisonment and revocation of the licence to operate the nightclub. The Government also indicates that the amendments to the CCPA will explicitly address children being used for prostitution. In this regard, the Committee notes that according to the 2018 Report of the National Rapporteur on Trafficking in Persons (2018 Report on TIP), girls are victims of recruitment strategy by traffickers and are exploited in clubs, bars, massage parlours and hotspots for prostitution. **Recalling that Article 3(b) of the Convention prohibits the use of a child under 18 years of age for prostitution, the Committee expresses the firm hope that the amendments to the CCPA will contain a prohibition on the use of a child under 18 years of age for the purpose of prostitution, in accordance with the Convention and that these amendments will be adopted without delay. 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 application in practice of section 39 of the CCPA, as regards the number of persons prosecuted for the offences related to the sexual exploitation of girls employed in bars and nightclubs, and the convictions and penalties applied.**

*Article 4(1). Determination of 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 requests the Government to refer to its detailed comments under the Minimum Age Convention, 1973 (No. 138).*

*Articles 5 and 7(1). Monitoring mechanisms, penalties and the application of the Convention in practice. Trafficking of children and child prostitution.* The Committee previously noted the establishment of the National Task Force Against Trafficking in Persons (NATFATIP) for the effective implementation of the National Plan of Action for Combating Trafficking in Persons; various awareness-raising measures taken to prevent trafficking as well as trainings and sensitization programmes provided to prosecutors, investigators, judges, labour inspectors, social workers and other public officials on trafficking in persons; and the amendments made to the Trafficking in Persons Act (TIP Act) 2009 thereby

prescribing aggravating circumstances and stiffer penalties for trafficking of children under section 4A(2)(l). The Committee requested the Government to continue to take measures to ensure, in practice, the protection of children from trafficking and commercial sexual exploitation.

The Committee notes the Government's information that the CCPA was amended in March 2018 in order to increase the penalties of imprisonment for the offences of sale and trafficking of children to 20 years so as to reconcile these with the penalties established under the TIP Act. It notes that from 2015 to 2018, a total of five convictions for trafficking in persons were secured, of which three convictions were made against persons charged with trafficking of children under the age of 18 years. These convicted persons were sentenced to imprisonment from four to 16 years.

The Committee also notes the following information provided by the Government on the measures taken by the NATFATIP to combat trafficking in persons (TIP):

- several awareness-raising activities to provide information and sensitize the public on the common indicators of TIP and on how to prevent TIP and to identify victims of trafficking were undertaken. According to the 2018 Report TIP, 17,000 students, teachers, government officials and community members were sensitized through these initiatives;
- a curriculum on TIP has been developed and introduced in primary and secondary schools; and
- the Anti-Trafficking in Persons and Intellectual Property Vice Squad (A-TIP squad) conducted 78 training sessions and seminars, from 2017 to 2018, for prosecutors, judges, border control personnel and other law enforcement representatives on how to effectively identify and respond to trafficking in persons cases. The 2018 Report on TIP indicates that of the 76 victims of trafficking rescued until January 2018, over 50 per cent were children with the majority being boys who were victims of labour exploitation.

The Committee also notes the information provided by the Government in its report under the Forced Labour Convention, 1930 (No. 29), that a Child Protection Compact (CPC), a multi-year plan partnership aimed at reducing child trafficking by building effective systems of justice, child protection, prevention of abuse and exploitation of children was signed with the United States and officially launched on 14th February 2019. The Committee, however, notes that according to the 2018 Report on TIP, the occurrence of child trafficking is far greater in Jamaica than what has been reported. ***While noting the measures taken by the Government, the Committee encourages it to strengthen its efforts to ensure the protection of children from trafficking and commercial sexual exploitation, including through the activities undertaken by NATFATIP and the measures taken within the Child Protection Compact. It also requests the Government to continue to ensure that thorough investigations and prosecutions of perpetrators of the trafficking and commercial sexual exploitation of children are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. Furthermore, the Committee requests the Government to continue to provide information on the measures taken in this respect and on the results achieved, including the number and nature of prosecutions and penalties imposed for the offences related to the trafficking and commercial sexual exploitation of children.***

*Article 7(2). Effective and time-bound measures. 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. Child victims of trafficking and prostitution.* The Committee previously noted that the National Plan of Action for Combating Trafficking in Persons provides for the establishment of mechanisms for the protection and care of victims with a focus on rescue, removal and reintegration. Noting that a very limited number of child victims were provided assistance, the Committee requested the Government to intensify its efforts to take effective and time-bound measures to ensure appropriate services to child victims of trafficking and commercial sexual exploitation, including child sex tourism, and to facilitate their rehabilitation and social integration.

The Committee notes from the Government's report that a Victim Protection Protocol was established by the NATFATIP to deliver guidelines for the care and protection of victims of trafficking. The Government also indicates that a Draft Protocol to guide Child Welfare Officials in handling victims of trafficking was prepared to guide officers of the Child Protection and Family Services Agency. It notes the Government's information that Shelter Guidelines and Standard Operating Procedures (SOP) were developed and that over 400 healthcare workers and over 30 labour officers and inspectors were provided training on the SOP in 2018. The Committee also notes the information provided by the Government on the support services provided for victims, including provision of shelter, food, clothing, transportation and primary healthcare; psychosocial support, counselling services and therapeutic intervention; legal services, immigration and travel assistance; access to education; and provision of welfare assistance. The Government further indicates that from 2015 to 2018, 11 victims were placed in shelters and five victims were repatriated. ***The Committee once again requests the Government to intensify its efforts, including within the framework of the National Action Plan for Combating Trafficking in Persons, to prevent children from falling victims to trafficking and commercial sexual exploitation and to provide for their removal from such situations and subsequent rehabilitation and social integration. It requests the Government to provide information on the 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.

## 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 information provided by the Government representative of Kenya to the Conference Committee in June 2013 concerning the various efforts taken to improve the child labour situation through legislative and constitutional reforms, technical assistance and relevant projects and programmes, including "Tackling child labour through education" (TACKLE) and Support to the National Action Plan (SNAP) project implemented with the support of the ILO-IPEC. It noted, however, that the Conference Committee, in its conclusions of June 2013, while noting the various measures taken by the Government to combat child labour, expressed its deep concern at the high number of children who were not attending school and were involved in child labour, including hazardous work, in Kenya. Additionally, the Committee noted that according to the findings of the ILO-IPEC Labour Market Survey carried out in the districts of Busia and Kitui in 2012, over 28,692 children were involved in child labour in the district of Busia, most of them involved in farm work, domestic work, street vending or engaged in drug trafficking. The survey report in the district of Kitui indicated that 69.3 per cent of children above 5 years of age were reported to be working, the majority of them between the ages of 10–14 years. Of these, 27.7 per cent were involved in farm work, 17 per cent in domestic work, 11.7 per cent in sand harvesting and 8.5 per cent in stone crushing and brick making.

The Committee notes the Government's indication that it has established several social support programmes, including cash transfer programmes aimed at providing income security to vulnerable groups in society where children may be forced to drop out of school. It also notes that according to the report of the SNAP project of January 2014, a total of 8,489 children (4,687 girls and 3,802 boys) were prevented and withdrawn from child labour. The Committee further notes that the 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. Accordingly, a roadmap on strengthening the institutional and legislative framework for the protection of child domestic workers has been adopted. While noting the various measures taken by the Government, the Committee notes from the SNAP project report of 2014 that child labour remains a developmental challenge in Kenya that is linked to issues such as access to education, skills training and related services, social protection and the fight against poverty. ***The Committee therefore strongly encourages 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, including domestic work by children, in the country. It requests the Government to continue providing information on the measures taken in this regard, as well as the results achieved. In addition, the Committee requests the Government to take the necessary measures to make available updated statistical information on the employment of children and young persons in the country.***

*Article 3(2). Determination of hazardous work.* The Committee previously noted the Government's statement that the list of types of hazardous work prohibited to children under 18 years which had been approved by the National Labour Board would be incorporated into the Employment Act Regulations of 2013 and would be adopted soon. It requested the Government to ensure that the Regulations would be adopted in the near future.

The Committee notes with **satisfaction** that the fourth schedule of the Employment (General) Rules, adopted in 2014, contains a list of 18 sectors including 45 types of work prohibited to children under the age of 18 years (section 12(3) read in conjunction with section 24(e)). These sectors include: domestic work; transport; internal conflicts; mining and stone crushing; sand harvesting; miraa picking; herding of animals; brick making; agriculture (working with machinery, chemicals, moving and ferrying heavy loads); industrial undertaking, warehousing; building and construction work (earth digging, carrying stones, shovelling sand, cement, metalwork, welding, work at heights, in confined spaces and with risk of structural collapse); deep lake and sea fishing; matches and fireworks; tannery; urban informal sector and street work (begging); scavenging; tourism; and service work. The Committee further notes that according to section 16 of the Employment (General) Rules, any person who contravenes any of the provisions related to the employment of children, including the prohibition on employing children in the hazardous types of work listed in the fourth schedule, shall be punished with a fine not exceeding 100,000 Kenyan shillings (KES) (approximately US\$982) or to imprisonment for a term not exceeding six months or both. ***The Committee requests the Government to provide information on the application in practice of section 16 of the Employment (General) Rules of 2014, including statistics on the number and nature of violations reported and penalties imposed for the violations pursuant to sections 12(3) and 24(e).***

*Article 7(3). Determination of light work.* Noting the Government's statement that the regulations prescribing light work in which a child of 13 years of age and above may be employed and the terms and conditions of that employment pursuant to section 56(3) of the Employment Act had been developed, the Committee expressed the firm hope that these regulations would be adopted soon.

The Committee notes with **interest** that according to section 12(4) of the Employment (General) Rules, a child between the ages of 13 and 16 may be employed in any light work contained in the fifth schedule which includes: work performed at school as part of the school curriculum; agricultural or horticultural work not exceeding two hours; delivery of non-bulk newspapers or printed materials; work in shops including shelf stacking; domestic hair dressing; light office work; car washing by hand in private residential settings; and work in a cafe or restaurant provided the nature of work is restricted to waiting on tables. Moreover, section 26 of the Employment (General) Rules prohibits children of 13 and 16 years of age from being employed in work which is likely to be harmful to the child's health and development or which would interfere with the child's education.

*Article 8. Artistic performances.* The Committee previously noted section 17 of the Children's Act, which provides that a child shall be entitled to leisure, play and participation in cultural and artistic activities. It also noted the Government's information that a regulation on granting of permits for artistic performances has been formulated and forwarded for adoption under the Employment Act Regulations of 2013.

The Committee notes from the Report of the Ministry of Labour, Social Security and Services (Report of the MoLSS) to the ILO direct contacts mission visit of August 2014 that the rules and regulations concerning the participation by children below 18 years in advertising, artistic and cultural activities will be submitted to the Attorney General's Office for gazettelement. According to this report, this regulation includes provisions related to contracts of employment, remuneration, hours of work, area of protection and offences and legal proceedings. ***The Committee expresses the firm hope that the regulations concerning the participation of children in artistic performances will be adopted in the near future. It requests the Government to provide a copy, once it has been adopted.***

*Noting from the report of the MoLSS of its intention to seek ILO technical assistance in its efforts to combat child labour, the Committee encourages the Government to consider seeking technical assistance from the ILO.*

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

*Articles 3(d), 4(1) and 7(2)(a) and (b) of the Convention. 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. Child domestic work.* The Committee notes 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 notes that the 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 notes that according to the report entitled *Road Map to Protecting Child Domestic Workers in Kenya: Strengthening the Institutional and Legislative Response*, April 2014, there are an estimated 350,000 child domestic workers in Kenya, the majority of whom are girls between 16 and 18 years of age. 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 accordingly 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.*

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.*

## **Lao People's Democratic Republic**

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2005)**

*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.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2005)**

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.

## Lebanon

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2003)**

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

*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 directly addressed to the Government.

**The Committee expects 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)**

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 Christian Confederation of Malagasy Trade Unions (SEKRIMA), which were received on 17 September 2013.

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that, according to the last National Survey on Child Labour (ENTE), more than one in four children in Madagascar between 5 and 17 years of age (28 per cent) work, namely 1,870,000 children. Most working children are in agriculture and fishing, where most of them are employed as family helpers. As regards children between 5 and 14 years of age, 22 per cent are working and 70 per cent attend school. The Committee also noted the allegations of the General Confederation of Workers' Unions of Madagascar (CGSTM) that many underage children from rural areas are sent to large towns by their parents to work in the domestic sector under conditions that are often dangerous. Moreover, these children have not necessarily completed their compulsory schooling. The Committee previously noted that the National Plan of Action against Child Labour in Madagascar (PNA) was in its extension phase in terms of staffing, beneficiaries and coverage (2010–15). The Government indicated that the work plan of the National Council for Combating Child Labour (CNLTE) for 2012–13 had been adopted. The Government also reported on a number of projects, including the AMAV project against child domestic labour and the plan of action against child labour in vanilla plantations in the Sava region, which was implemented under the ILO–IPEC TACKLE project.

The Committee notes the observations of SEKRIMA stating that the practice of child labour persists in Madagascar. SEKRIMA also highlights a very high drop-out rate during the first five years of schooling.

The Committee notes the Government's indications that the PNA has partly been implemented by mobilization activities under the AMAV project, particularly in the Amoron'i Mania region, with the display of four "Red card against child labour" billboards, the distribution of flyers on combating child domestic labour and awareness-raising activities concerning revision of the *dina* (local convention) in order to incorporate the issue of child domestic labour. Moreover, a total of 125 children between 12 and 16 years of age were withdrawn from domestic labour and trained for the competition to obtain a diploma. The Government also indicates that each year it celebrates the World Day Against Child Labour as a means of mass awareness raising while continuing to display posters in working-class neighbourhoods and hold discussions with parents, local authorities and social partners. It also mentions that there are currently 12 Regional Councils for Combating Child Labour (CRLTEs). The Committee further notes that the capacities of various entities for combating child labour have been reinforced, namely 50 entities involved in vanilla production in the Sava region and 12 in the Antalaha region, 91 members of trade union organizations, 43 journalists and three technicians of the National Institute of Statistics. Lastly, the Committee notes the Government's indication that in 2014 the CNLTE revamped Decree No. 2007-263 of 27 February 2007 concerning child labour and Decree No. 2005-523 of 9 August 2005 establishing the CNLTE, its tasks and structure. Further to a study on hazardous work, 19 types of hazardous work were officially recognized in 2013 and incorporated into the Decree under adoption. While noting the measures taken by the Government, the Committee observes that the 2012 National Survey of Employment and the Informal Sector (ENEMPSI 2012) reveals that 27.8 per cent of children are working, namely 2,030,000 children. The survey also shows that 28.9 per cent of children between 5 and 9 years of age (83,000) and 50.5 per cent of children between 10 and 14 years of age (465,000) do not attend school. **While welcoming the Government's efforts to improve the situation, the Committee urges the Government to intensify its efforts to ensure the progressive elimination of child labour. It requests it to provide information on the results achieved by the implementation of the PNA and also on the activities of the CNLTE and CRLTEs. It requests the Government to provide a copy of the revised version of Decree No. 2007-263, once it has been adopted.**

*Article 2(3). Age of completion of compulsory schooling.* In its previous comments, the Committee noted that, according to UNESCO, the age of completion of compulsory schooling is lower than the minimum age for admission to employment or work. The Committee observed that the official age of access to primary education is 6 years and the duration of compulsory schooling is five years, meaning that the age of completion of compulsory schooling is 11 years. The Committee noted the CGSTM's allegation that no changes had yet been made by the Government to resolve the problem of the difference between the age of completion of compulsory schooling (11 years) and the minimum age for admission to employment or work (15 years). The Committee noted the Government's indication that the Ministry of Education was pursuing its efforts so as to be able to take measures to resolve the gap between the minimum age for admission to employment or work and the age of completion of compulsory schooling.

The Committee notes the Government's indications that the Ministry of Education organized a "national education convention" in 2014 consisting of in-depth national consultations on the implementation of inclusive, accessible and high-quality education for all. However, the Committee notes with *regret* that the question of the age of completion of compulsory schooling has still not been settled and has remained under discussion for many years. It 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). The Committee observes once again that, as stated in the 2012 General Survey on the fundamental Conventions, 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 (paragraph 371). **Observing that the Government has been discussing this matter for ten years, the Committee urges the Government to take measures, as a matter of urgency, to raise the age of completion of compulsory schooling so that it coincides with the age of admission to employment or work in Madagascar. It requests the Government to provide information on the progress achieved in this respect.**

*Article 6. Vocational training and apprenticeships.* Further to its previous comments, the Committee notes the Government's indication that the Ministry of Employment, Technical Education and Vocational Training has prepared a bill on the national employment and vocational training policy (PNEFP) in collaboration with the ILO and in consultation with the social partners. The Government indicates that the bill is awaiting approval before being submitted to Parliament for adoption. **The Committee requests the Government to take the necessary measures to speed up the adoption of the bill concerning apprenticeships and vocational training. It requests the Government to provide a copy of this legislative text once it has been adopted.**

**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 *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 requests the Government to provide its comments in this respect.*

*Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 105th Session, May–June 2016)*

The Committee notes the Government's report, received on 25 October 2016, and the in-depth discussion on the application of the Convention by Madagascar in the Committee on the Application of Standards at the 105th Session of the International Labour Conference in June 2016.

*Articles 3(b) and 7(1) of the Convention. Worst forms of child labour and sanctions. Child prostitution.* In its previous comments, the Committee noted that section 13 of Decree No. 2007-563 of 3 July 2007 respecting child labour categorically prohibits the procuring, use, offering or employment of children of either sex for prostitution and that section 261 of the Labour Code and sections 354–357 of the Penal Code, which are referred to in Decree No. 2007-563, establish effective and dissuasive sanctions. The Committee noted the observations of the Christian Confederation of Malagasy Trade Unions (SEKRIMA) indicating that the number of girls under the age of majority, some as young as 12 years old, who are engaged in prostitution is increasing especially in cities, that 50 per cent of prostitutes in the capital, Antananarivo, are minors, and 47 per cent engage in prostitution because of their precarious situation. For fear of reprisals, 80 per cent of them prefer not to turn to the authorities. Furthermore, the Government has strengthened the capacity of 120 actors engaged in tourism in Nosy-Be and 35 in Tuléar in relation to sexual exploitation for commercial purposes. However, the Committee noted the absence of information on the number of investigations, prosecutions and convictions of those engaged in commercial sexual exploitation. It also noted the increase in sex tourism involving children, the insufficient measures taken by the Government to combat this phenomenon and the low number of prosecutions and convictions, all of which fosters impunity.

The Committee notes that the Conference Committee recommended the Government to strengthen its efforts to ensure the elimination of the sexual exploitation of children for commercial purposes and sex tourism.

The Committee notes the Government's indication in its report that the Ministry of Internal Security, through the Police for Morals and the Protection of Minors (PMPM), is one of the agencies responsible for the enforcement of penal laws on the sexual exploitation of children for commercial purposes, including prostitution. The PMPM centralizes criminal charges concerning children and is responsible for conducting investigations into alleged perpetrators. The Government adds that the PMPM regularly makes unannounced raids on establishments that are open at night to monitor the identity and age of the persons present, but that it is difficult to determine whether the minors who are found are prostitutes. Moreover, the Committee notes that a code of conduct for actors in the tourism industry was signed in 2013. The code of conduct seeks to raise awareness among all actors in tourism with a view to bringing an end to sexual tourism in the country. The Committee also notes the statistics provided by the Government on the cases handled by the courts of first instance in Betroka, Ambatolampy, Arivonimamo, Nosy-be, Taolagnaro, Vatomaniry, Mampikony and Ankazobe. It notes that in 2015 no cases of the exploitation of minors or of sex tourism involving minors were brought before these courts. The Committee is therefore once again bound to note with *deep concern* the absence of prosecutions and convictions of perpetrators, which is resulting in the continuation of a situation of impunity which seems to persist in the country. *The Committee therefore urges the Government to take immediate and effective measures to ensure that robust investigations and effective prosecutions are carried out on 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 continue providing statistical information on the number and nature of the violations reported, investigations, prosecutions, convictions and criminal penalties imposed in this respect. Finally, the Committee requests the Government to provide information on the results achieved as a result of the dissemination of the code of conduct among the various actors in the tourism sector.*

*Clause (d). Hazardous types of work. Children working in mines and quarries, and labour inspection.* In its previous comments, the Committee noted that children work in the Ilakaka mines and in stone quarries under precarious and sometimes hazardous conditions, and that the worst forms of child labour are found in the informal economy and in rural areas, which the labour administration is unable to cover. The Committee also noted that the work carried out by children in mines and quarries is a contemporary form of slavery, as it involves debt bondage, forced labour and the economic exploitation of those concerned, particularly unaccompanied children working in small-scale mines and quarries. It noted that children work from five to ten hours a day, that they are engaged in transporting blocks of stone or water, and that some boys dig pits one metre in circumference and between 15 and 50 metres deep, while others go down the pits to remove the loose earth. Children between three and seven years of age, often working in family groups, break stones and carry baskets of stones or bricks on their heads, working an average of 47 hours a week when they are not enrolled in school. Moreover, the working conditions are unhealthy and hygiene is extremely poor. All of the children are also exposed to physical and sexual violence and to serious health hazards, particularly due to the contamination of the water, the instability of pits and the collapse of tunnels.

The Committee notes that the Conference Committee recommended the Government to take measures to improve the capacity of the labour inspectorate. It also notes the Government's indication that, in the context of the National Plan of Action to Combat Child Labour (PNA), the labour inspectorate envisages conducting inspections to take preventive and protective measures with a view to combating child labour in mines and quarries in the regions of Diana, Ihorombe and Haute Matsiatra. The Committee notes that the Government representative to the Conference Committee indicated that the lack of resources is a major obstacle to the adoption of rigorous measures. For example, labour inspectors do not have means of transport, even though the Government indicates in its report that one of the main obstacles to inspections by labour inspectors is the fact that mining sites, located on the outskirts of large cities, are often difficult to access. The Committee notes with *deep concern* the situation of children working in mines and quarries under particularly hazardous conditions. *The Committee once again urges the Government to take the necessary measures to ensure that no children under 18 years of age can be engaged in work which is likely to harm their health, safety or morals. It requests the Government to provide information on the progress made in this respect, particularly in the context of the PNA, and the results achieved in removing these children from this worst form of child labour. The Committee also requests the Government to improve the capacities of the labour inspectorate, in particular by providing the necessary resources, such as vehicles, to enable labour inspectors to have access to remote sites.*

*Article 7(2). Effective and time-bound measures. Clause (d). Children at special risk. Street children.* In its previous comments, the Committee noted that the Ministry of Labour and Social Legislation (MTLS) was continuing its programme of school enrolment and training for street children in the context of the Public Investment Programme for Social Action (PIP). It however noted that the number of street children has increased in recent years and that the action taken by the Government to help them is still minimal. The Government indicated that the programmes financed under the PIP have the objective of removing 40 children a year from the worst forms of child labour, or 120 children over three years. The Committee nevertheless noted that there are about 4,500 street children in the capital, Antananarivo, most of whom are boys (63 per cent) who live from begging or sorting through rubbish. Girls living on the streets are frequently victims of sexual exploitation to meet their subsistence needs, or under pressure from third parties. Others are engaged in domestic work, swelling the ranks of exploited child workers.

The Committee notes that the Conference Committee, in its conclusions, requested the Government to increase funding for the PIP with a view to removing children from the streets and for awareness-raising campaigns.

The Committee notes the Government's indication that the Ministry of the Population, Social Protection and the Promotion of Women has set up a census programme of children living and working on the streets and homeless families for the period 2015–16. The objective of this programme is to determine the number of children living and working on the streets, identify the needs of homeless families and develop a short-, medium- and long-term plan of action to deal with them. The Committee notes that studies have been carried out, data analysed and interpreted, and shelters set up. The next stages will consist of the provision of shelter, care, guidance, education, school enrolment and placement or repatriation of the persons concerned. **The Committee requests the Government to continue taking effective and time-bound measures to ensure the targeted implementation of the PIP's programmes, and requests it to intensify its efforts to ensure that street children are protected from the worst forms of child labour and are rehabilitated and integrated in society. It requests the Government to provide information on the results achieved in this respect. The Committee also requests the Government to provide information on the data collected through the census programme on children living and working in the streets and homeless families, as well as the results achieved in removing them from this situation and preventing them from becoming engaged in the worst forms of child labour.**

*Application of the Convention in practice.* The Committee previously noted that 27.5 per cent of children, or 2,030,000, are engaged in work, of whom 30 per cent live in rural areas and 18 per cent in urban areas. The Committee also noted that 81 per cent of child workers between 5 and 17 years of age, or 1,653,000 children, are engaged in hazardous types of work. Agriculture and fishing account for the majority of child labour (89 per cent), and more than six out of ten working children have reported health problems resulting from their work over the past 12 months. The Committee further noted that child domestic labour is often a feature of the lives of poor rural families who send their children to urban areas in response to their precarious situation. Child domestic workers may be forced to work up to 15 hours per day, and most of them receive no wages, which are paid directly to their parents. In some cases, they sleep on the floor, and many are victims of psychological, physical or sexual violence. The Committee expressed its deep concern at the situation and number of children under 18 years of age forced to perform hazardous types of work.

The Committee notes the Government's indication that it is intensifying its efforts to combat child labour through the Manjary Soa project. The Manjary Soa Centre, established in 2001, offers selected children second chance education. Once these children have been reinserted into the public education system, the Centre covers their school fees and provides them with the necessary school supplies. The Committee also notes the 2014–16 project to combat child labour in the regions of Diana and Atsimo Andrefana. The Government indicates that the objective of this project is to reinforce action in support of the socio-economic reintegration of 100 girls under 18 years of age, who have been removed from sexual exploitation for commercial purposes in Nosybe, Toliara and Mangily. **The Committee requests the Government to intensify its efforts to eliminate the worst forms of child labour, and particularly hazardous types of work, and to provide information on any progress made in this regard and 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.**

## Malawi

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. Sale and trafficking of children.* In its previous comments, the Committee noted that section 179(1) of the Child Care, Protection and Justice Act which establishes penalties for any transaction involving child trafficking applied only to children under 16 years of age. It also noted from the concluding observations of the United Nations Human Rights Committee of 18 June 2012 (CCPR/C/MWI/CO/1, paragraph 15), that a draft anti-trafficking bill was in the process of consideration by the Parliament. The Committee asked the Government to ensure that the anti-trafficking bill would be adopted as soon as possible.

The Committee notes with *satisfaction* the adoption of the Trafficking in Persons Act No. 3 of 2015 which criminalizes and punishes the offences related to trafficking of children. According to section 15 of the Act, a person who commits an offence of trafficking of a child under the age of 18 years shall be liable to imprisonment for 21 years. "Trafficking in persons" as defined under section 2 of the Act, means recruiting, transporting, transferring, harbouring, receiving or obtaining a person within or beyond the territory of Malawi for the purposes of exploitation, including labour and sexual exploitation. It also notes the Government's information in its report that several cases of trafficking of children have been dealt with under the new Act and that the perpetrators were prosecuted, and sentenced to imprisonment for 14 to 18 years. **The Committee requests the Government to provide specific information on the application in practice of the Trafficking in Persons Act, including in particular, statistics on 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.**

*Clause (b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* In its previous comments, the Committee noted that section 84(1)(d) of the Child Care,

Protection and Justice Act No. 22 of 2010 only provides that a social welfare officer who has reasonable grounds to believe that a child is being used for the purposes of prostitution or immoral practices, may remove and temporarily place the child in a place of safety and does not contain any prohibition against the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances. It noted the Government's indication that it would endeavour to include this prohibition in the labour laws which were under review. The Committee expressed its deep concern at the continued lack of regulation to prohibit the commercial sexual exploitation of children.

The Committee notes the Government's information that the Child Care Protection and Justice Act has been reviewed to set the age of a child at 18 years through the harmonization process by the Law Commission which is still ongoing. It also notes the Government's statement that the Child Care Protection and Justice Act and the Penal Code have provided benchmarks for the judiciary in dealing with cases regarding prostitution, pornography and sale of children. The Government further indicates that the revision of these legislations are under consideration.

In this regard, the Committee notes that the Penal Code of 1930 as amended by Act No. 9 of 1999 contains provisions which establish penalties for the offences related to: (a) procurement or attempts to procure any girl or women under the age of 21 years to become a prostitute or an inmate of or frequent a brothel, either in Malawi, or elsewhere (section 140); (b) unlawful detention of any woman or girl in any brothel (section 143). Persons committing such offences shall be guilty of a misdemeanour which includes imprisonment for more than three years. Section 155 deals with the indecent assault of boys under 14 years of age which shall be punishable with imprisonment for seven years. However, the Committee observes that there appears to be no provision criminalizing the use of a child by a client for prostitution and, furthermore, there are no provisions that protect boys aged 15 to 18 years from the use, procuring or offering for prostitution. In addition, the Committee observes that there appear to be no provisions prohibiting the use, procuring or offering of children for the production of pornography or for pornographic performances.

In this regard, the Committee notes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of March 2017 expressed its grave concern at the low rate of reporting and delays in prosecuting the perpetrators of sexual exploitation and the limited access to justice by child victims, particularly of girls (CRC/C/MWI/CO/3-5, paragraph 22(d) and (e)). ***The Committee therefore urges the Government to take the necessary measures, within the framework of the revision of national legislation, to ensure the protection of boys between 15 to 18 years from commercial sexual exploitation as well as to criminalize clients who use both girls and boys under 18 years of age for prostitution. The Committee also requests the Government to indicate the measures taken or envisaged to ensure that the use, procuring or offering of a child under 18 years for the production of pornography or for pornographic performances is prohibited. It finally requests the Government to take the necessary measures to ensure that effective mechanisms are established to deal with cases concerning the use of children for purposes of commercial sexual exploitation and 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). 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. Children engaged in hazardous work in commercial agriculture, particularly tobacco estates.* In its previous comments, the Committee noted that children were engaged in work that is considered as hazardous, especially in the tobacco and tea estate sector. It noted that in Mzimba, Mulanje and Kasungu, child labour continued to be dominated by the agricultural sector and that children often worked in hazardous conditions without protective gear, and with hazardous equipment such as hoes, ploughs, saws, sickles, panga knives and sprayers.

The Committee notes the Government's information that Malawi being an agro-based economy with tobacco ranking highest in generating the Gross Domestic Product (GDP), this sector demands much labour throughout its supply chain. Child labour in this sector occur mainly due to the tenancy system, whereby children of the tenants working in tobacco estates engage in child labour, often in hazardous work in the fields. In this regard, the Committee notes the Government's reference to the ongoing projects on Achieving Reduction of Child Labour in Support of Education (ARISE) and the Child Labour Elimination Actions for Real Change (CLEAR I and II) supported and funded by the Elimination of Child Labour in Tobacco Growing Foundation (ECLT) which enhanced the protection of children from engaging in child labour in tobacco farms and necessitated their withdrawal and rehabilitation. According to the information from the Development Cooperation (DCPR) Final Progress Report (FPR) of the ILO-IPEC, within the framework of the ARISE project, from April 2015 to December 2018, 2101 children (1,027 boys and 1,074 girls) were provided with rehabilitation services; 2,012 children (986 boys and 1,026 girls) were prevented from child labour, 675 children (365 boys and 310 girls) were withdrawn from child labour; and 59 children were protected and had their workplaces improved. It also notes from the DCPR-FPR of the ILO-IPEC of 2016 and 2018 that since 2016, Malawi has been actively implementing the project entitled "Strengthening Social Dialogue in selected Tobacco Growing Countries". Within this project, several Cooperatives and Associations in the tobacco growing communities have been strengthened and their capacities enhanced to deal with child labour situations; awareness has been created on child labour through public meetings at national, district and community level; training of trainers has been conducted for agricultural cooperatives on the elimination of child labour through social dialogue; and training on child labour has been provided to 33 labour officers and 199 council members from five districts. The Government of Malawi has further embarked on a project on Accelerating Action for the Elimination of Child Labour in Supply Chains in Africa (ACCEL) which focusses on the elimination of child labour in the tea and coffee supply chains.

*The Committee 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, namely ARISE, CLEAR, Strengthening Social Dialogue in selected Tobacco Growing Countries, and ACCEL. 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.*

*Clause (e). Special situation of girls. Commercial sexual exploitation of children.* In its previous comments, the Committee noted that the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW), in its concluding observations had expressed its concern at the extent to which women and girls were involved in sexual exploitation, including prostitution, and the limited statistical data regarding these issues (CEDAW/C/MWI/CO/6, paragraph 24). It therefore urged the Government to strengthen its efforts to prevent girls under the age of 18 from becoming victims of commercial sexual exploitation and to provide information on the concrete measures taken to protect, remove and rehabilitate them.

The Committee notes the Government's information that the Ministry of Education, in collaboration with other stakeholders, is implementing education programmes to support the girl child and keep them in schools through bursaries and the provision of critical amenities. Programmes like Village Savings and Loans are being implemented in rural areas to empower women and support themselves and startup businesses. The Committee, however, notes that the CRC, in its concluding observations of March 2017 on the Optional Protocol to the Convention on the rights of the child on the sale of children, child prostitution and child pornography expressed its concern at the reports of cases of child sex tourism at the holiday resorts along Lake Malawi (CRC/C/OPSC/MWI/CO/1, paragraph 23). *The Committee urges the Government to continue to take effective and time-bound measures to prevent girls under the age of 18 years from becoming victims of commercial sexual exploitation and to remove and rehabilitate victims of this worst form of child labour. It also requests the Government to provide concrete information on the measures taken in this regard, and on the number of these children who have been effectively rehabilitated and socially integrated. 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.

## Mauritania

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2001)**

The Committee notes the observations of the Free Confederation of Mauritanian Workers (CLTM) received on 12 June 2019.

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the indications of the International Trade Union Confederation (ITUC), according to which the Ministry of Labour authorized work by 13-year-old children. It also noted the observations of the CLTM, to the effect that young children, including the children of slaves and former slaves, are working in hazardous conditions in agriculture, small-scale fishing, construction work and garbage removal. It also noted that, according to the "MICS4 – Multiple Indicator Cluster Survey" finalized by the National Statistics Office in 2014, 22 per cent of children between 5 and 14 years of age were involved in child labour. The Committee requested the Government to take the necessary measures to ensure the effective abolition of child labour. The Committee also noted the adoption of the National Plan of Action on the Elimination of Child Labour 2015–20 (PANETE-RIM), and requested the Government to provide information on the activities and results achieved through the Plan of Action.

The Committee notes the information provided by the Government in its report, indicating that a National Council for Children has been set up, in order to assist the department responsible for children with the coordination, preparation, implementation and monitoring/evaluation of policies, strategies and programmes for children. The Government also indicates that ten regional childhood protection boards have been set up, which enabled the identification in 2017 of over 17,000 child victims of violence, exploitation, discrimination, abuse and negligence, including working children. It adds that awareness-raising events against child labour were organized during the year. The Committee notes the ILO information that, in the context of the "MAP 16" project launched in Nouakchott in March 2019, an agreement was established in the small-scale fishing sector to combat child labour in national supply chains. In addition, the Ministry for Children and the Family was due to launch an interactive guide in October 2019 for the prevention of child labour in Mauritania, designed, inter alia, for members of the PANETE-RIM steering committee and members of the national child protection system.

The Committee observes that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of November 2018, expressed deep concern at the high prevalence of child labour in the informal, agricultural, fishery and mining sectors, and at the lack of resources allocated for the implementation of the PANETE-RIM (CRC/C/MRT/CO/3-5, paragraph 40).

Furthermore, the Committee notes the observations of the CLTM, to the effect that children work in all sectors of activity, including hazardous work likely to jeopardize their health, safety or morals.

While noting the measures taken by the Government, the Committee expresses its *concern* at the situation of children working below the minimum age, often in hazardous conditions. *The Committee urges 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 also requests the Government to provide information on the activities of the National Council for Children and on the regional childhood protection boards for combating child labour.*

*Article 3(3). Admission of children to hazardous work from the age of 16 years.* In its previous comments, the Committee noted that although section 1 of Order No. 239 of 17 September 1954, as amended by Order No. 10.300 of 2 June 1965 concerning child labour, prohibits the employment of children under 18 years of age in hazardous work, certain provisions, such as sections 15, 21, 24, 25, 26, 27 and 32 of Order No. 239 and section 1 of Order No. R-030 of 26 May 1992, set forth exceptions to this prohibition for young persons between 16 and 18 years of age. The Committee also noted the allegation made by the General Confederation of Workers of Mauritania (CGTM) that children are exploited in hazardous work in the major cities, and it asked the Government to ensure that the performance of hazardous work by young persons between 16 and 18 years of age is only authorized under strict conditions of protection and prior training, in accordance with *Article 3(3)* of the Convention. The Committee notes the Government's indication that it will take the necessary steps to bring the national legislation into line with the Convention, as part of the review of the Labour Code, and that it will ensure that the Orders in question are amended so as to provide that the performance of hazardous work by young persons between 16 and 18 years of age is only authorized in accordance with *Article 3(3)* of the Convention. ***The Committee expresses the firm hope that Orders Nos 239 and R-030 will be amended so that the performance of hazardous work by young persons between 16 and 18 years of age is only authorized in accordance with Article 3(3) of the Convention. The Committee requests the Government to provide information on the progress made in this respect.***

*Article 7(3). Determination of light work.* In its previous comments, the Committee noted that, under section 154 of the Labour Code, no child between 12 and 14 years of age may be employed without the express permission of the Minister of Labour, and only under certain conditions restricting the hours of such employment. Observing that a substantial number of children were working below the minimum age of 14 years for admission to employment or work, the Committee requested the Government to take the necessary steps to ensure that the competent authority determines the activities in which the employment of, or light work by, children between 12 and 14 years of age may be permitted.

The Committee notes the Government's indications that, as part of the review of the Labour Code, it will take the necessary measures to determine the activities in which the employment of, or light work by, children between 12 and 14 years of age may be permitted. ***The Committee expresses the firm hope that the Government will take account of the Committee's comments, so that the activities in which the employment or work of children between 12 and 14 years of age is permitted are determined by the competent authority. 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.

### ***Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)***

The Committee notes the observations of the Free Confederation of Mauritanian Workers (CLTM), received on 12 June 2019.

*Articles 3(a) and 7(1) of the Convention. Slavery or slavery-like practices; penalties. 1. Child victims of slavery.* The Committee notes Act No. 2015-31 of 10 September 2015 criminalizing slavery and suppressing slavery-like practices, and the setting up in 2016 of three special criminal courts having jurisdiction in matters relating to slavery. Section 7 of the Act of 2015 provides that any person who subjects another to slavery shall be liable to imprisonment of 10 to 20 years and a fine.

The Committee notes the observations of the CLTM, according to which the State must eliminate slavery-like practices.

The Committee notes that the African Committee of Experts on Children's Rights and Welfare, in its Decision No. 003/2017 of 15 December 2017, observed that Mauritania has not carried out any adequate investigation or prosecution of perpetrators of slavery who compelled two children from the Haratine community to undertake domestic work and herd livestock, seven days a week, without pay or rest, and prevented them from attending school. The Government had imposed a less severe penalty on the perpetrators than the one provided for in Act No. 2007-048 which criminalizes slavery and slavery-like practices. ***Recalling the importance of the effective implementation of criminal penalties to eliminate the worst forms of child labour, the Committee requests the Government to take the necessary steps to ensure the effective application of Act No. 2015-31 criminalizing slavery and suppressing slavery-like practices. In this regard, the Committee requests the Government to indicate the number of investigations, prosecutions and penalties imposed by the special anti-slavery courts, indicating specifically the cases involving victims under 18 years of age. The Committee also requests the Government to provide information on existing measures enabling child victims of slavery to assert their rights effectively and to enjoy protection.***

*2. Forced or compulsory labour. Begging.* In its previous comments, the Committee 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. The Committee noted the allegations of the General Confederation of Workers of Mauritania (CGTM) that teachers in religious schools force children to go onto the streets to beg. It also noted a survey conducted in Nouakchott in 2013, which revealed that begging

affected children as young as 3 years of age but mainly involved children between 8 and 14 years of age, that 90 per cent of child beggars were male and 61 per cent of children said that they were instructed to beg by their *marabout* (religious teacher). The Committee asked the Government to take the necessary steps to ensure the effective implementation of the above-mentioned provisions, particularly by thorough investigation and robust prosecution.

The Committee notes with *regret* the lack of information on investigations and prosecutions of *marabouts* who force children to beg. It notes that the United Nations Committee on the Rights of the Child (CRC), indicates in its concluding observations that boys enrolled in Koranic schools are obliged to beg on the streets to meet the financial needs of their *marabouts*, who exploit and mistreat them (CRC/C/MRT/CO/3-5, paragraphs 40 and 41). ***Recalling that even the best legislation is only effective if it is enforced, the Committee 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 requests 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 the adoption of Act No. 025/2003 of 17 July 2003 concerning the suppression of trafficking in persons. The Committee also observed that Mauritania appeared to be a country of origin for the trafficking of children for labour exploitation. It observed that the National Plan of Action for the Elimination of Child Labour 2015–20 (PANETE–RIM) identifies the presence of child victims of trafficking in Mauritania. The Committee asked the Government to provide information on the application in practice of Act No. 025/2003 of 17 July 2003 concerning the suppression of trafficking in persons.

The Committee notes that the Government does not provide any information on this matter in its report. It also notes 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 requests the Government to take the necessary steps to eliminate the sale and trafficking of children for exploitation. In this regard, the Committee requests the Government to provide information on the application in practice of Act No. 025/2003 concerning the suppression of trafficking in persons and section 78 of Act No. 2018-024 issuing the General Child Protection Code, indicating the number and nature of offences reported, prosecutions initiated and penalties imposed in cases involving child victims of trafficking. It also requests the Government to provide information on the measures taken in the context of the PANETE–RIM to combat the trafficking of children.***

*Articles 3(d) and 4(1). Hazardous work. Identification of hazardous types of work.* In its previous comments, the Committee noted objective 1.2 of the PANETE–RIM providing for the drawing up of a list of hazardous types of work in accordance with the Convention and section 247 of the Act issuing the Labour Code (prohibition of certain types of work for children under 18 years of age). The Committee expressed the firm hope that the list of hazardous types of work prohibited for children under 18 years of age would be adopted in the near future.

The Committee notes the Government's indication, in its report on the Minimum Age Convention, 1973 (No. 138), that in the context of the "MAP 16" project launched in Nouakchott in March 2019, the list of hazardous types of work is being drawn up. The Government explains that legislation relating to this list will be adopted by the end of 2019. The Committee also notes section 76 of Act No. 2018-024 of 21 June 2018 issuing the General Child Protection Code, which prohibits hazardous work for children under 18 years of age, replicating the criteria for determining hazardous work set out in Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190). ***The Committee expresses the firm hope that the Government will take the necessary steps in the very near future to adopt the list of hazardous types of work prohibited for children under 18 years of age, in consultation with the social partners. The Committee requests the Government to send a copy of the legislative text once it has been adopted.***

*Article 5. Monitoring mechanisms and application of the Convention in practice.* In its previous comments, the Committee expressed concern at the situation of children engaged in the worst forms of child labour in Mauritania, including hazardous work. It observed that, according to the 2015 report on child labour in Mauritania, children work in sectors including mechanical engineering, fishing, agriculture, herding, small-scale commerce, as domestic workers or cart drivers, in hazardous conditions including the risk of road accidents, transportation of heavy loads, with most of them working on the streets and for long hours, and sometimes suffering violence. It also noted that, according to the survey related to the 2015 report on child labour in Mauritania, local labour inspections do not cover the issues of the labour and trafficking of children and are lacking in human and financial resources. The Committee requested the Government to take immediate and effective steps to ensure the protection of children in practice against the worst forms of child labour, to strengthen the capacities of the labour inspectorate as a matter of urgency, and to provide information on inspections of the worst forms of child labour.

The Committee notes with *regret* the lack of information from the Government. It notes the Government's indication, in its 2017 comments on the Labour Inspection Convention, 1947 (No. 81), that ten new labour inspectors and nine new labour controllers had just been appointed to different inspection departments. It also referred to a project that was being negotiated to equip the inspection services with vehicles and computer equipment needed for the due performance of their tasks.

The Committee further notes 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 indicate that 77.1 per cent of working children who responded to the survey are unpaid family workers. According to this 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 survey also indicates that 56 per cent of children interviewed said that they had suffered physical abuse at work and 66.7 per cent had been exposed to psychological abuse. The Committee is bound to express *deep concern* at the number of children who are involved in the worst forms of child labour, including hazardous work. ***The Committee therefore urges the Government to take all the necessary steps to monitor and combat the worst forms of child labour, particular hazardous work. In this regard, it requests the Government to take measures to strengthen the capacities of the labour inspectorate, particularly in the informal economy. It requests the Government to send, as soon as possible, extracts from labour inspection reports relating to the worst forms of child labour.***

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.* In its previous comments, the Committee noted the information from the Government to the effect that, as a result of the national child protection system established at the Ministry of Social Affairs, Children and the Family, a total of 5,084 out-of-school working children and child beggars had been enrolled in schools. However, the Committee noted the persistent presence of children engaged in begging, according to the 2015 report on child labour in Mauritania, and asked the Government to continue providing information on the number of child victims of begging who have been removed from the streets and rehabilitated and integrated into society, and to indicate any other measures taken to identify *talibé* children who are forced to beg, and to remove them from such situations.

The Committee notes that the Government does not provide any information on this matter. It notes the Government's indication, at the time of submitting Mauritania's report to the CRC in September 2018, that in order to put an end to the system of exploited *talibé* children, a network of social protection and rehabilitation centres was providing care for street children, with a view to their integration in school and vocational training. As a result of these centres, 3,200 children have been enrolled in school and access to vocational training has been enabled for 1,651 children. ***The Committee requests the Government to continue taking measures to remove children under 18 years of age from begging and to ensure their rehabilitation and integration in society, as well as to provide information in this regard, including on the number of talibé children cared for by the social protection and rehabilitation centres. The Committee encourages the Government to establish a time-bound programme to ensure that children under 18 years of age who engage in begging enjoy the protection established by the Convention.***

Clause (c). *Access to free basic education.* In its previous comments, the Committee noted that in 2013, according to UNESCO estimates, the school attendance rate was 73.1 per cent at primary level and 21.6 per cent at secondary level. According to the 2015 survey of child labour in Mauritania, dropping out of school is one of the main reasons for the presence of large numbers of children on the labour market in Nouakchott. The Committee asked the Government to continue its efforts to improve the functioning of the education system.

The Committee notes the Government's indications that regional child protection boards and communal child protection systems have been set up, including for the purpose of taking action against dropping out of school. The Government explains that these systems have enabled 5,084 children (2,560 girls and 2,578 boys) to be re-enrolled in school in three *wilayas* (regions) and to receive school kits and extra tuition, where necessary. The Government indicates, in its report under Convention No. 138 that it is developing awareness-raising measures, such as action in the form of a caravan visiting some 20 rural districts, one of the goals being to promote school enrolment for girls. It also explains that it is giving special attention to the education of girls from disadvantaged social and family backgrounds and that it aims to promote specific partnerships, if necessary, to combat educational wastage. The Committee notes that, according to UNESCO estimates, the net school enrolment rate in 2018 was 79.57 per cent for primary education and 30.98 per cent for secondary education.

The Committee notes the information accessible on the sustainable development goals knowledge platform, indicating that universal access to basic education has been improved, with virtual parity between girls and boys in primary education. However, this same information indicates that the quality of teaching remains poor. It also refers to the adoption of the *Tekavoul* national programme for monetary transfers, involving conditions related to school attendance and health for children and their mothers, and aimed at covering the 100,000 poorest households.

The Committee notes that the CRC expressed concern at the poor quality of education, low transition rates to secondary school, and insufficient monitoring of private and Koranic schools. It highlighted the closure of six public schools in Nouakchott, and stated that the proliferation of private schools makes access to quality education difficult for children living in disadvantaged or vulnerable situations (CRC/C/MRT/CO/3-5, paragraph 35). Moreover, the United Nations Special Rapporteur on extreme poverty and human rights, in his March 2017 report on his mission to Mauritania, stated that the schools which he had visited were hugely overcrowded and grossly understaffed (A/HRC/35/26/Add.1). The Committee also notes that the United Nations Committee on the Elimination of Racial Discrimination (CERD), in its concluding observations of May 2018, expressed concern at the very high school drop-out rates among girls who are descended from persons subjected to slavery or among black African girls (CERD/C/MRT/CO/8-14, paragraph 19). ***Considering that access***

*to 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 requests the Government 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 requests the Government to provide statistical information on the school enrolment and completion rates at both primary and secondary levels.*

*Clause (e). Particular situation of girls. Domestic work.* In its previous comments, the Committee noted the observation of the International Trade Union Confederation (ITUC) that many girls are forced into unpaid domestic service. It also noted the information in the PANETE–RIM to the effect that child domestic workers account for 17.28 per cent of children covered by the survey, the majority of whom are girls who do not attend school, work more than 16 hours a day and who experience various problems, including abuse, rape and unpaid wages. The Committee also observed that, according to the survey related to the 2015 report on child labour in Mauritania, domestic work is traditionally done by the daughters of former slaves and resembles the work previously done by their own enslaved mothers. The Committee therefore asked the Government to take effective and time-bound measures to ensure that children who are victims of exploitation in domestic work are removed from this worst form of child labour and are rehabilitated and integrated into society.

The Committee notes with *regret* that the Government does not provide information on this matter in its report. It notes that the CRC, in its concluding observations of November 2018, expressed concern at the fact that more than half of all domestic workers in Mauritania are children, the majority of them girls, and that such children are not only separated from their families but are also exposed to economic exploitation, violence, discrimination and abuse, including sexual abuse. The CRC also expressed concern at reports of the existence of caste-based slavery, which has a particular impact on girls in domestic service (CRC/C/MRT/CO/3-5, paragraphs 24 and 40). The Committee is bound to express its *deep concern* at the situation of girl domestic workers in Mauritania.

The Committee notes that the Government, at the time of submitting its report to the CRC in September 2018, explained that contracts for domestic work must be in written form and that abuses in this area were severely punished. *The Committee therefore urges the Government to take the necessary steps to put an end in practice to the exploitation of girls in domestic work. In this regard, it requests the Government to provide statistical information on the number and nature of penalties imposed on persons who exploit girls under the age of 18 in domestic work and to send copies of standard employment contracts for domestic workers. Lastly, the Committee requests the Government to provide information on the number of child victims of exploitation in domestic work who have been withdrawn from this worst form of child labour and who have been rehabilitated and integrated into society.*

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

## Mexico

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Articles 3(a) and 7(1) of the Convention Sale and trafficking, and penalties.* In its previous comments, the Committee urged the Government to intensify its efforts to eliminate in practice the trafficking of children by ensuring that thorough investigations are carried out and that sufficiently effective and dissuasive penalties are applied in practice against the persons committing such acts, including State officials suspected of complicity. It also requested the Government to continue providing detailed information on the implementation by the federal states of the 2012 Act against trafficking, including the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed in cases involving children and young victims.

With regard to the measures adopted by the Government in the context of the implementation of the General Act of 2012 against trafficking in persons, the Committee notes the information provided by the Government in its report that in 2016 a total of 24 specialized federated units were created for the prosecution of the crime of trafficking in persons, with 375 employees, including 215 women.

The Committee also notes the activities reports for 2016 of the Inter-Ministerial Commission for the prevention, action to combat and penalization of trafficking in persons and the protection and assistance of victims of these crimes. Out of a total of 760 women victims recorded, 152 were girls under 18 years of age, who were victims of trafficking for child prostitution and other forms of sexual exploitation, 15 victims of labour exploitation, three victims of trafficking for forced labour and, finally, three victims of trafficking for illicit activities. Out of a total of 129 male victims recorded, 20 were boys under 18 years of age, victims of trafficking for child prostitution or other forms of sexual exploitation, 17 victims of labour exploitation, three victims of trafficking for forced labour and one victim of trafficking for illicit activities. Of the 107 crimes of trafficking brought to the courts, there were 27 acquittals and 77 convictions.

The Committee also notes the follow-up action taken on a case under investigation for the crime of labour exploitation by a State employee, and three preliminary investigations and a current inquiry concerning State employees for the crime of child pornography, without indicating the number of victims under the age of 18 years. *Reiterating its concern at the low number of convictions obtained in cases of trafficking of children under 18 years of age for commercial sexual exploitation and at the allegations of complicity in such activities of State employees, the Committee once again requests*

*the Government to intensify its efforts in this respect. It requests the Government to continue providing detailed information on the number of reported violations, investigations, prosecutions, convictions and criminal penalties imposed in cases involving children and young victims, disaggregated by gender and age.*

*Article 3(b). Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.* In its previous comments, the Committee requested the Government to take the necessary measures to combat children prostitution and pornography, particularly by ensuring that thorough investigations are carried out and that sufficiently effective and dissuasive penalties are applied against the perpetrators. It also requested the Government to continue providing information on the number of reported violations, investigations, prosecutions, convictions and penalties imposed for crimes relating to child prostitution and pornography.

The Committee notes the Government's indication that the publication of the report following upon the concluding observations of the United Nations Committee on the Rights of the Child of 2015 (CRC/C/MEX/CO/4-5) is planned for October 2020. The Committee notes the establishment since 2015 of a working group composed of around 30 public institutions with the responsibility of following up the recommendations of the United Nations Committee on the Rights of the Child. It also notes the creation of a commission following the adoption of the 2014 General Act on the rights of girls, boys and young persons intended to coordinate and articulate compliance with the recommendations of the Committee on the Rights of the Child, as well as Mexico's international commitments in terms of complying with, guaranteeing and protecting the rights of girls, boys and young persons.

The Committee notes the Government's indications concerning the national *Chinaulta* operation which is targeted at groups of individuals who use children under 18 years of age for the production of child pornography through the WhatsApp social network.

The Committee also notes the information provided by the Office of the Special Prosecutor dealing with violence against women and trafficking in persons (FEVIMTRA), which reports 87 investigations carried out between 1 July 2015 and 31 May 2018 into cases of trafficking of children for use in pornography and ten investigations into trafficking of children for other forms of sexual exploitation. Finally, there were 18 convictions for the crime of trafficking children for use in pornography. In relation to these cases and investigations, a total of 159 child victims of trafficking for use in pornography and a total of 22 child victims of trafficking for other forms of sexual exploitation have been recorded by FEVIMTRA. *The Committee requests the Government to continue taking the necessary measures to combat child sexual exploitation, including prostitution and child pornography, particularly by ensuring that thorough investigations are carried out and that sufficiently effective and dissuasive penalties are applied against the perpetrators. It once again requests the Government to provide information on the types of penalties imposed for violations relating to child prostitution and child pornography.*

*Articles 3(d) and 4(1). Hazardous work and determination of hazardous types of work.* In its previous comments, the Committee encouraged the Government to intensify its efforts to ensure that in practice no children under 18 years of age are engaged in work likely to harm their health, safety or morals, in accordance with sections 175 and 176 of the Decree of 2015 reforming the Federal Labour Law on child labour. The Committee requested the Government to provide information on the number of violations detected and penalties imposed in this respect.

The Committee notes, according to the child labour module of the survey carried out by the National Institute of Statistics and Geography, the fall from 26.6 per cent to 18.2 per cent in the engagement of children and young persons under 18 years of age in hazardous work between 2007 and 2017. *While welcoming the decline in the percentage of children engaged in hazardous work in Mexico, the Committee once again requests the Government to continue to take measures to ensure that no children under 18 years of age are engaged in work likely to harm their health, safety or morals. It requests the Government to provide detailed information disaggregated by gender and age category on the number of violations detected and the penalties imposed in this respect.*

*Article 6. Programmes of action. Trafficking.* In its previous comments, the Committee requested the Government to provide information on the measures taken within the framework of the national programme to prevent, punish and eradicate crimes relating to trafficking in persons and to protect and assist the victims of these crimes, and particularly for the elimination of the sale and trafficking of children.

The Committee notes the Government's information on the actions taken by FEVIMTRA in accordance with the four objectives of the national programme to prevent, punish and eradicate crimes relating to trafficking in persons and to protect and assist the victims of these crimes. With regard to prevention, FEVIMTRA has coordinated awareness-raising activities for the population and action to strengthen the capacities of the personnel responsible for dealing with the victims of trafficking in persons. It has also distributed awareness-raising materials on the crime of trafficking in persons.

The Committee takes due note of the annual collaboration mechanisms between federal bodies for joint investigations and operations to prosecute crimes of trafficking in persons. It also notes that the Inter-Ministerial Commission for the prevention, action to combat and punishment of trafficking in persons and the protection and assistance to the victims provides for quarterly, half-yearly and annual reports on trafficking in persons. *The Committee requests the Government to continue providing information on the measures taken within the framework of the national programme to prevent, punish and eradicate crimes relating to trafficking in persons and to protect and assist the victims of these crimes, and particularly on the elimination of the sale and trafficking of children.*

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in and removing them from the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation.* In its previous comments, the Committee encouraged the Government to continue taking measures to remove children from trafficking and commercial sexual exploitation and to ensure their rehabilitation and social integration. It also requested the Government to continue providing information on the measures taken in this respect and the results achieved in terms of the number of children removed from these worst forms of child labour and then rehabilitated and integrated into society.

The Committee notes, from the Government's report, the various types of action undertaken by FEVIMTRA for the protection and reintegration of victims of trafficking and of sexual exploitation. The Rapid Care Unit deals with women, girls and boys who are victims of trafficking and provides psychosocial support, including for police interviews with victims and hearings. The Unit provides legal support in the form of advice and follow-up, support with a view to resolving the migration situation or assisted return and, where necessary, for the granting of visas for humanitarian reasons. The Committee also notes FEVIMTRA's socio-economic reintegration action through a specialized shelter, which facilitates the reintegration into society of victims of trafficking and commercial sexual exploitation.

The Committee also notes the various types of collaboration between FEVIMTRA, the Mexican Commission for Assistance to Refugees (COMAR) and the Executive Commission for Care for Victims, and the creation of the Federal Office for the Protection of Girls, Boys and Young Persons, which began operating in 32 federated states of Mexico in October 2015. ***The Committee once again requests the Government to provide information on the number of children removed from these worst forms of child labour and then rehabilitated and socially integrated. It encourages the Government to continue taking measures to remove children from trafficking and commercial sexual exploitation and to ensure their rehabilitation and social integration.***

*Article 8. International cooperation.* In its previous comments, the Committee requested the Government to provide information on the measures taken and the results achieved within the framework of the memoranda of understanding signed with El Salvador, Guatemala, Honduras and Nicaragua.

The Committee notes the Government's indication in its report that Mexico has an agreement for the exchange of information and experience with a view to combating organized cross-border crime, drug trafficking and other related crimes between the Office of the Prosecutor-General of the Republic of Mexico and the Office of the Prosecutor-General of El Salvador, and that no activities have been reported in relation to trafficking in persons.

The Committee notes the programme of the child protection agents of the National Migration Institute (INM), the objective of which is to ensure respect for the rights of migrant girls, boys and young persons, especially those who are not accompanied. There are 331 child protection centres in the 32 federal departments of the INM, whose capacity is regularly reinforced by national bodies, such as the National System for Comprehensive Family Development, the COMAR, the National Institute for Women, the National Human Rights Commission and the National Council for the Prevention of Discrimination, and from international organizations, such as the United Nations Children's Fund, the International Organization for Migration and the United Nations High Commissioner for Refugees. Between 2015 and May 2018, according to the Government's report, the INM assisted 3,500 migrants, including 169 victims of the crime of trafficking in persons, of whom three victims were children under 18 years of age. The Committee notes that in May 2018 a total of 12,249 migrant girls and boys under 18 years of age were identified by the INM, including 4,416 unaccompanied children.

The Committee also notes that, according to the Government's report, FEVIMTRA has participated in several meetings of the working groups supported by the United States Department of Justice with a view to improving joint action to combat trafficking in persons between Mexico and the United States.

The Committee also notes the Government's participation in the regional operation ROCA ("breaking chains"), currently in its third phase, the objective of which is to develop regional action to combat organized criminal activities relating to trafficking in persons and similar violations involving children and young persons, and to provide assistance to victims and offer them care and protection, while conducting investigations into organized criminal structures. During the period under consideration, a total of 91 interventions were carried out and 70 victims received assistance. The Committee notes that the Government participated in 2018 in the evaluation of Operation ROCA II in Costa Rica, on which the plans for ROCA III are based. The Committee also notes the participation of the Government of Mexico in the DRACART international operation, which is aimed at optimizing investigations into child pornography with a view to initiate criminal prosecutions in 23 countries throughout the world. ***The Committee encourages the Government to pursue international cooperation with neighbouring countries to combat trafficking of children. It also requests the Government to continue providing information on the measures taken in the context of its programmes and the results achieved. To the extent possible, this information should be disaggregated by gender and age.***

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

## Mongolia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2002)**

*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.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for prostitution.* The Committee previously noted that the Criminal Code, as amended in 2012, provided for a fine of 51–100 amounts of minimum salary or incarceration for a term of three to six months for involving minors into prostitution (section 115.2). It noted that the draft revised Criminal Code, which included a provision incriminating the use, procurement and offer of a child for prostitution, was under review by the Parliament. It also noted that, according to the Understanding Children's Work (UCW) programme's report entitled:

*The twin challenges of child labour and education marginalisation in East and South East Asia region*, girls are trafficked internally and subjected to commercial sexual exploitation. The Committee requested the Government to provide information on the application in practice of the provisions of the Criminal Code incriminating the involvement of minors in prostitution.

The Government indicates in its report that detailed information in this respect is not available. It states that, according to the General Police Department, no cases of children sexually exploited were registered in 2016 and 2017, and that one case was registered between January and May 2018. The Committee notes that the Government has adopted a new Criminal Code in 2015 (entered into force in July 2017), pursuant to which the sexual exploitation of children is punishable by 12 to 20 years of imprisonment, and by two to eight years of imprisonment for the sexual exploitation of children aged from 14 to 18 (section 12.3). The Committee further notes that the Special Representative and Co-ordinator for Combating Trafficking in Human Beings of the Organization for Security and Co-operation in Europe (OSCE) indicated in her report on Mongolia, finalized in February 2018, that Mongolian children are trafficked for the purpose of sexual exploitation in saunas, hotels, massage parlours and karaoke clubs. **Recalling that the best legislation only takes value when it is applied effectively, the Committee requests the Government to take the necessary steps to ensure the effective application of section 12.3 of the Criminal Code, indicating the number of child victims of commercial sexual exploitation and the number and nature of convictions and penalties imposed.**

*Clause (d). Hazardous work. Horse jockeys.* In its previous comments, the Committee noted that, under the Law on National Naadam Festival, the lower age limit for children riding racehorses is established at 7. It noted that, according to the National Human Rights Commission, despite the progress in regulating the use of protective clothing for child jockeys in the Mongolian National Standard (MNS 6264:2011), the implementation of the standard was not effective. The Government indicated that around 10,000 children were used as child jockeys every year during the summer holidays, and that 59 per cent of child jockeys were covered by an accident insurance. It stated that, according to the 2014 National Social Indicator Survey, 5 per cent of all children aged from 4 to 15 were child jockeys for a minimum of one year (10 per cent of boys and 1 per cent of girls). Furthermore, half of the child jockeys interviewed reported to carry out bareback riding on their last race and 3 per cent were injured. The Committee noted that several activities were organized by the National Authority for Children (NAC) in order to ensure the safety of child jockeys. However, the Government indicated that there had been no unannounced inspections. It also mentioned that access to a database on legal cases in Mongolia is quite limited. The Committee observed that, according to the UCW project, the Ministry of Health reported that more than 300 children injured during horse races were treated at the National Trauma Centre alone, in 2012. The Committee accordingly urged the Government to take the necessary measures in law and in practice to ensure that no child under 18 years of age is employed as a horse jockey. The Committee further requested the Government, where such work is performed by young persons between 16 and 18 years of age, to ensure that protective measures are strictly enforced and that unannounced inspections are carried out by the labour inspectorate.

The Committee notes the Government's indication that the National Child Development and Protection Programme for the 2017–21 period, approved by resolution No. 270 of 20 September 2017, reflects measures to be implemented to advance towards the prohibition of hazardous work, including the prohibition of children under the age of 16 from taking part in winter and spring horse races and the regulation of health, safety and protection issues when races are permitted. The Government indicates that in 2016, 13,572 children taking part in horse races were identified, and 10,453 were identified in 2017.

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 list of jobs prohibited for children under 18 years of age was revised in 2016 to include, inter alia, the prohibition of child jockeys from attending horse racing from 1 November to 1 May of each year. However, the National Human Rights Commission indicates that the Minister of Labour and Social Protection issued Decree A/28 on 20 February 2017 which has shortened the period of the ban to the winter season each year. Moreover, the Committee notes that, in January 2019, the Government issued resolution No. 57, prohibiting the organization of horse races every year from 1 February to 1 May.

The Government also indicates, in its comments of 13 June 2018 on the OSCE report, that the Authority on Family, Child and Youth Development (formerly the NAC) has been taking concrete measures in order to improve the protection of rights and safety of child jockeys, such as the holding of consultations with domestic insurance companies to increase the insurance fees and compensation payments. The Professional Inspection Agency carried out an inspection on the safety of child jockeys in horse races held during several festivals, including the national Nadaam Festival, to ensure the implementation of the Law on National Nadaam Festival, as well as the standard MNS6264:2011 on the requirements for safety clothing for child jockeys and horse wear. The Committee observes that the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings noted the efforts of the Authority on Family, Child and Youth Development to register child jockeys and ensure that they are provided with life insurance and protective clothing (paragraph 29).

The Committee however notes that, in its concluding observations of July 2017, the United Nations Committee on the Rights of the Child (CRC) expressed serious concern at the prevalence of conflicts of interest between official duties and the private interests of those in public service roles, including members of Parliament and Government officials having personal investments in horse racing and training. The CRC also remained seriously concerned that children continue to be engaged in hazardous work, including horse racing (CRC/C/MNG/CO/5, paragraphs 13 and 40). The Committee observes

that, in its recommendation submitted to the Prime Minister of Mongolia on 22 January 2018, the National Human Rights Commission reported 79 falls of child jockeys, involving 12 children injured and one death, during horse races which took place in 2016 and 2017. It further notes that, according to the Final Narrative Report of the project to sustain the Generalised Scheme of Preferences (GSP+) Status by implementing international labour standards in Mongolia, in March 2018, 16 children, including children under 12 years of age, were reportedly injured at the Dunjingarav Horse Racing Races. The Committee is therefore bound to express its *deep concern* at the situation of child jockeys exposed to serious injuries and fatalities. ***Recalling that horse racing is inherently dangerous to the health and safety of children, the Committee urges the Government to take, as a matter of urgency, the necessary measures in law and in practice to ensure that no child under 18 years of age is employed as a horse jockey, throughout the year. It requests the Government to provide information on the application in practice of the hazardous work list, including the number of violations detected and penalties applied.***

*Article 7(2). Clause (a). Effective and time-bound measures. Preventing the engagement of children in the worst forms of child labour. Access to free basic education.* In its previous comments, the Committee noted that the UCW project reported in 2015 that the percentage of out-of-school rural children aged from 10 to 14 years of age was five times that of urban children. The Committee requested the Government to provide information on the measures taken to provide access to free, basic and quality education to both working and out-of-school children, as well as in increasing school attendance rates, in particular in the rural areas.

The Committee notes the Government's indication that, for the academic year 2017–18, 402 children have dropped out of school, compared to 445 in the 2016–17 academic year and 612 in the 2015–16 year. It further 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 pre-school, primary and secondary school enrolments have considerably increased. In the academic year 2016–17, 79.2 per cent of children were enrolled in preschool and 97 per cent were enrolled in primary and secondary school. The Deputy Minister of Labour and Social Protection also stated that the Government has revised its State Policy on Education in 2015. The Committee however notes that the Action Programme 2016–20 of the Government provides that all children in urban areas are allowed to enrol in kindergarten, without mentioning children living in rural areas. It also notes that the Action Programme provides that herders' children are able to start school between 6 and 8 years old, at their choice. The Committee underlines that the Government shall ensure access to free basic education to all children, regardless of their geographical location. The Committee also points out that, by raising from 6 to 8 the age at which herders' children can start school, children are more likely to be engaged in the worst forms of child labour. ***Considering that education is key to preventing the engagement of children in the worst forms of child labour, the Committee requests the Government to take the necessary measures to improve the functioning of the educational system, in order to ensure that both children living in rural and in urban areas have equally access to free basic education. It requests the Government to provide information on the measures taken in this regard and the results obtained, particularly with regard to increasing school attendance rates and reducing school drop-out rates, in primary and secondary education. Please disaggregate the data by gender and age.***

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

## Namibia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

*Article 3(2) of the Convention. Determination of types of hazardous work.* The Committee previously noted that a list of types of hazardous work prohibited to children under 18 years was in its final stage of adoption and expressed the firm hope that this list would be adopted in the near future.

The Government indicates in its report that the list of types of hazardous work prohibited to children under 18 years has not yet been adopted. ***Noting that the Government indicates that the adoption of the list of hazardous types of work prohibited to children under 18 years of age has been in progress since 2011, the Committee urges the Government to take the necessary measures to ensure that the list of types of hazardous work is adopted without further delay.***

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

## Netherlands

### Aruba

### **Minimum Age Convention, 1973 (No. 138)**

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(2) of the Convention. Determination of types of hazardous work.* In its previous comments, the Committee noted the Government's indication that the proposal to allow the Director of the Labour Department to determine the types of hazardous work was with the Department of Legislation for technical evaluation and revision. The Committee urged the Government to take

the necessary measures to ensure that, following the approval of the Department of Legislation, the Director of the Labour Department determines the types of hazardous work at the earliest possible date.

The Committee notes with *satisfaction* that the Government adopted Ministerial Decree No. 78 of 2013 which contains a list of types of hazardous work prohibited to young persons under the age of 18 years. This list comprises work involving lifting or pulling heavy weights; working continuously in the same position; work involving contact with toxic, carcinogenic, mutagenic substances as well as explosives, irritants or corrosive substances; work with wild, poisonous or dangerous animals; slaughtering of animals; work in establishments providing alcohol; work with or near dangerous machines or equipment involving fire, explosion, electrocution, bottlenecks, harvesting, cutting; work under water; work with devices that have harmful non-ionizing electromagnetic radiation; work with compressed gases; work exposing children to high noise and vibration; work in environments causing a risk of collapse; work near power lines; and work in hospitals. *The Committee requests the Government to provide information on the implementation of Ministerial Decree No. 78, including the number and nature of violations regarding young persons engaged in hazardous work.*

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.*

## Pakistan

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2006)**

*Article 2(1) of the Convention. Minimum age for admission to employment or work.* The Committee previously noted the Government's statement that, following the 18th Constitutional Amendment, the power to legislate on labour matters had been transferred to the provinces. Accordingly, it noted that the Khyber Pakhtunkhwa Prohibition of Employment of Children Act, 2015 (KPK Act 2015) and the Punjab Restriction on Employment of Children Ordinance, 2016 (Punjab Ordinance 2016) contained provisions specifying a minimum age of 14 and 15 years for admission to employment or work, respectively. Noting that the Islamabad Capital Territory (ICT), as well as Balochistan and Sindh provinces had also drafted legislation containing similar provisions, the Committee requested the Government to take the necessary measures to ensure the adoption of the draft laws in the near future.

The Committee notes with *interest* the Government's information in its report that the Sindh Prohibition of Employment of Children Act which was adopted in 2017 establishes a minimum age of 14 years for admission to employment or work (section 3(1)). The Government also indicates that the Balochistan Employment of Children (Prohibition and Regulation) Bill, 2019 is under the process of being presented to the Cabinet while the ICT administration is making efforts to revise the provisions of the Employment of Children Act, 1991 with the ILO's support. *The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the Balochistan Employment of Children (Prohibition and Regulation) Bill, 2019 and the revised Employment of Children Act, 1991 of ICT which establishes a minimum age of 14 years for admission to employment or work will be adopted without delay. It requests the Government to provide information on any progress made in this regard.*

*Article 3(1) and (2). Hazardous work and determination of types of hazardous work.* In its previous comments the Committee noted that the KPK Act 2015 and the Punjab Ordinance 2016 provided for two lists of types of hazardous work prohibited to young persons under 18 years of age. It noted that the draft laws from ICT, Balochistan and Sindh also prohibit hazardous work for children below 18 years of age. The Committee requested the Government to take the necessary measures to ensure that the draft laws prohibiting the employment of persons under 18 years of age in hazardous types of work in ICT, Balochistan and Sindh provinces are adopted in the near future, after consultation with the organizations of employers and workers concerned.

The Committee notes with *satisfaction* that section 3(2) of the Sindh Prohibition of Employment of Children Act 2017, prohibits the employment of adolescents in 38 hazardous occupations and activities listed in its schedule. The Committee further notes the Government's indication that the Balochistan Employment of Children (Prohibition and Regulation) Bill, 2019 has also updated the list of hazardous occupations and processes prohibited to young persons and the ICT administration is in the process of adopting laws prohibiting hazardous types of work by young persons under the age of 18 years. *The Committee once again requests the Government to take the necessary measures to ensure that the Balochistan Employment of Children (Prohibition and Regulation) Bill of 2019 and the draft laws of ICT which contain provisions prohibiting the employment of young persons under the age of 18 years in hazardous types of work and occupations are adopted in the near future. It requests the Government to provide information on any progress made in this regard.*

*Article 9(1). Penalties and labour inspectorate.* The Committee previously noted that the enforcement of child labour legislation was weak due to the lack of inspectors assigned to child labour, lack of training and resources, and corruption, and that the penalties imposed were often too minor to act as a deterrent. In this regard, the Committee noted the Government's information that the new laws in Khyber Pakhtunkhwa (KPK) and Punjab provinces on the prohibition of employment of children as well as the Punjab Prohibition of Child Labour at Brick Kilns Act 2016 increased the fines for the violation of their provisions. It further noted the Government's information that reforms of the labour inspection system was being carried out under the Strengthening Labour Inspection System Programme in Pakistan (SLISP) with the support from the ILO country office. The Committee requested the Government to continue its efforts to strengthen the capacity of

the labour inspectorate, and to continue providing information on the number and nature of violations relating to the employment of children detected by the labour inspectorate.

The Committee notes the observations made by the Pakistan Workers Federation (PWF) in October 2017 that the incidence of child labour has increased even in the formal sector due to the abolition of the labour inspection system, the imposition of restrictions on inspections or due to the inspections being conditioned on the employer's permission.

The Committee notes the Government's information that the Balochistan Employment of Children (Prohibition and Regulation) Bill, 2019 and the ICT draft laws on child labour have increased the maximum fines for violations of the child labour provisions. It also notes the Government's information regarding the application of the KPK Act of 2015 that, in 2017, 3,367 inspections were conducted, 23 convictions were handed out, out of 36 prosecutions, involving 21,921 Pakistani rupees (PKR) in fines (approximately US\$142); while in 2018, 8,367 inspections were conducted, and 95 convictions were handed out, out of 213 prosecutions, involving PKR134,000 in fines (approximately \$863). The Committee observes that the fines imposed are very low and do not appear to be sufficiently effective and dissuasive.

The Committee further notes from the Government's report under the Labour Inspection Convention, 1947 (No. 81) on the various measures taken within the framework of SLISP to strengthen and improve the capacity of the provincial labour inspectors. According to this information, trainings were provided: to 121 labour inspectors in Punjab on effective monitoring; to 29 labour inspectors in Sindh on risk assessment and accident investigation; and to 40 labour inspectors in Sindh on occupational health and safety in the construction sector. Moreover, a labour inspection profile has been developed and will be finalized by the end of 2019. The Government also indicates that efforts are being made by the provincial governments to increase the annual budget for labour inspection services and for material resources and transport and travel allowances for labour inspectors. ***The Committee requests the Government to continue its efforts to strengthen the capacity of the labour inspectorate, and to continue providing information on the number and nature of violations detected and penalties imposed relating to the employment of children. It also requests the Government to continue to strengthen its measures to ensure that persons who violate the above-mentioned laws are prosecuted and that sufficiently effective and dissuasive penalties are imposed.***

*Application of the Convention in practice.* The Committee previously noted the Government's indication that, with the assistance of UNICEF, the governments of Punjab, Sindh, KPK and Balochistan had initiated measures to carry out child labour surveys in their respective provinces. The Committee also noted from the report *Understanding Children's Work in Pakistan: An Insight into Child Labour Data (2010–15) and Legal Framework* that the number of children of 10–17 years of age engaged in child labour had decreased from 4.04 million in 2010–11 to 3.7 million in 2014–15, of which 2.067 million (55 per cent) were in the 10–14 years age group. The Committee urged the Government to strengthen its efforts to prevent and eliminate child labour, and to provide the results of the child labour surveys at the provincial levels once available.

The Committee notes the observations made by the PWF that in Pakistan no dedicated child labour survey has been carried out since 1996. However, all reliable evidence indicates that the incidence of child labour, though showing a decline in recent years, is still considerably high. Child labour is rampant in the agricultural sector, factories, textile, garments, carpet and industrial units, brick kilns, hotels and restaurants, auto workshops and in mines and quarries.

The Committee notes the Government's information that the government of KPK has paid special attention to prevent and eliminate child labour from the province. An exclusive unit on child labour has been established with the Directorate of Labour. It also notes the Government's statement that regular inspections at industrial establishments have gradually led to the complete elimination of child labour from this sector and efforts are being continued to do likewise in the commercial establishments. Furthermore, the Khyber Pakhtunkhwa Child Labour Policy 2018 and the KPK Act of 2015 are a milestone to eliminate child labour from the province. The Government also indicates that the implementation of the Sindh Labour Policy of 2017 and the new laws on child labour will result in the elimination of child labour in the province. The Government further indicates that the child labour survey is ongoing in the provinces of KPK, Sindh and ICT while the project is in the pipeline in Balochistan. The Committee finally notes the Government's statement in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that a comprehensive system is being formulated to eliminate child labour from the country through awareness-raising programmes in the society and the reshaping of the political, economic and social systems of the country and by taking such measures that make child labour a crime.

The Committee notes that according to the Punjab Multiple Indicator Cluster Survey (MICS) findings Report, 2017–18, 13.4 per cent of children aged between 5 and 17 years are engaged in child labour with 10.3 per cent of them involved in hazardous work. Furthermore, the MICS report of 2016–17 of the KPK indicates that over 14 per cent of children of 5–17 years are involved in child labour, of which 12.3 per cent are working in hazardous conditions. The Committee further notes that according to the UNICEF report on the Situation Analysis of Children in Pakistan, 2017, there is a high prevalence of child labour in Pakistan coupled with low rates of school participation. The persistence of child labour has multi-layered roots such as poverty, lack of decent work for adults, need for strengthened social protection and the lack of a system that can ensure that all children attend school rather than engaging in economic activities. The Committee finally notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of July 2017, expressed concern that over 2 million children aged between 10 and 14 years are working and that 28 per cent of them are engaged in hazardous work, including in agriculture, brick kilns, coal mining, on the streets and in domestic settings (E/C.12/PAK/CO/1, paragraph 63). While taking due note of the measures taken by the Government, the Committee must

express its *deep concern* at the significant number of children under the minimum age who are engaged in child labour, including in hazardous work. ***The Committee therefore urges the Government to take the necessary measures to ensure the progressive elimination of child labour, including through continued cooperation with the ILO, and to provide information on the results achieved. The Committee also once again requests the Government to provide the results of the child labour surveys at the provincial levels once available.***

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

### ***Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)***

*Articles 3(a) and 5 of the Convention. Debt bondage and monitoring mechanisms.* The Committee previously noted that the Bonded Labour System (Abolition) Act (BLSA) 1992 abolished bonded labour and that district vigilance committees (DVCs) were constituted to monitor the implementation of the BLSA. It noted that the BLSA was applicable in Islamabad Capital Territory (ICT), Balochistan and Punjab, while Khyber Pakhtunkhwa (KPK) and Sindh provinces enacted provincial legislation on bonded labour (KPK Bonded Labour System Abolition Act 2015 and Sindh Bonded Labour System Abolition Act 2015). The Committee requested the Government to continue its efforts to eliminate child debt bondage and to strengthen the capacity of DVCs and law enforcement officials responsible for the monitoring of bonded labour.

The Committee notes the Government's information in its report that the BLSA was adapted in the Punjab province with certain amendments through the Punjab Bonded Labour System (Abolition) Amendment Act of 2018 which primarily aims at strengthening the ongoing system of inspections and reporting. The Government also indicates that the Balochistan Bonded Labour System (Abolition) Bill 2019 is awaiting approval from the Cabinet. The Committee further notes the Government's information that the DVCs have been revitalized in all the 36 districts of Punjab and are working vigilantly to eradicate child bonded labour under the district administration, particularly in brick kilns and workshops. The provinces of Sindh, KPK and Balochistan are in the process of establishing DVCs. Provincial child and bonded labour units have been established in Punjab and KPK while Sindh, Balochistan and ICT are making efforts in this respect. The Government also indicates that the Sindh administration has registered and brought 740 brick kilns all over the province within the ambit of various labour laws, including the Sindh Prohibition of Employment of Children Act, 2015, in order to combat the menace of bonded labour. The Committee further notes the Government's statement that the provinces are making efforts to strengthen institutional mechanisms for inspection and improvement in enforcement of labour laws on child and bonded labour, extension of coverage of such labour laws to the uncovered sectors and capacity development of inspection staff.

The Committee notes, however, from the National Commission for Human Rights Pakistan report entitled *Towards Abolishing Bonded Labour in Pakistan, 2018* that over 1.3 million persons, including men, women and children in the brick kiln sector in Pakistan are working under conditions of debt bondage. This report further indicates that despite efforts by the Government and civil society, Pakistan remains a country with a large number of its workforce trapped in the systemic cycle of bondage. ***The Committee therefore urges the Government to intensify its efforts to eliminate child debt bondage, including through the effective implementation of the laws abolishing bonded labour and by establishing DVCs in all the provinces and strengthening their capacity as well as the capacity of the law enforcement officials responsible for the monitoring of child bonded labour. The Committee requests the Government to continue to provide information on the measures taken in this regard and on the results achieved, including the number of child bonded labourers identified by the DVCs and other law enforcement officials, the number of violations reported, investigations conducted, prosecutions, convictions and penal sanctions imposed. The Committee finally requests the Government to take the necessary measures to ensure that the Balochistan Bonded Labour System (Abolition) Bill 2019 is adopted in the near future.***

*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).*

*Article 7(2). Effective and time-bound measures. Clauses (a) and (e). Preventing the engagement of children in the worst forms of child labour. Access to free basic education and the special situation of girls.* The Committee previously noted that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations of 11 July 2016, expressed concern at the large number of children (47.3 per cent of all children aged 5 to 16 years) who were not enrolled in formal education, of which the majority had never attended school and at the high dropout rate for girls, 50 per cent in Balochistan and KPK and 77 per cent in the Federal Administered Tribal Areas (CRC/C/PAK/CO/5, paragraph 61). The Committee urged the Government to redouble its efforts to improve access to free basic education for all children, taking into account the special situation of girls.

The Committee notes the Government's information that measures are being implemented to improve the enrolment of children in education, including the provision of monetary incentives through *Khidmat* ATM cards for vulnerable children and children involved in the worst forms of child labour. According to this scheme, 2,000 Pakistani rupees (PKR) shall be paid to the family while enrolling a child and thereafter PKR1,000 per month to each child enrolled after verification of their attendance at school. The Government indicates that more than 90,000 identified children working in brick kilns have benefited from this scheme. The Committee also notes the Government's indication that the school enrolment rates have currently reached 50.6 million compared to 48 million during 2016–17, an increase by 5.3 per cent while the gender disparity has also narrowed. The Committee notes from the UNICEF 2018 Annual Report, Pakistan that the provincial governments have been engaged in developing key policies with UNICEF such as the Punjab Non-Formal Education (NFE) Policy and the Sindh NFE Policy to enrol 600,000 out-of-school children in school in five years and the KPK NFE policy which will

be endorsed shortly. These policies ensure that children excluded from education have opportunities to learn and develop skills through alternative learning pathways (ALP). In 2018, 550 ALP centres in all four provinces received direct UNICEF support, reaching 17,500 children (44 per cent girls). Moreover, UNICEF supported 2,784 early childhood education (ECE) centres across the four provinces enabling 99,400 children (58 per cent girls) to acquire ECE. The Committee, however, notes from the UNICEF report that over 5 million children are out of school, 60 per cent of whom are girls, while the number increases drastically after primary level with 17.7 million adolescents aged 10–16 years, of whom 51 per cent are girls, who are outside formal education. The Committee further notes that according to UNESCO statistics, the net enrolment rate in primary education in 2018 was 67.7 per cent (61.6 per cent female and 73.37 per cent male) and at the secondary level was 38.53 per cent (36.38 per cent female and 40.51 per cent male). While noting the measures taken by the Government, the Committee must express its *deep concern* at the low enrolment rates at the primary and secondary education levels and at the high number of out-of-school children. *Considering that education is key in preventing the engagement of children in the worst forms of child labour, the Committee urges the Government to continue its efforts to improve access to free basic education for all children, taking into account the special situation of girls. The Committee requests the Government to continue to provide information on the concrete measures taken in this regard, and to provide statistical information on the results achieved, particularly with regard to increasing school enrolment rates and reducing school drop-out rates and the number of out-of-school children. To the extent possible, this information should be disaggregated by age and gender.*

*Clause (d). Identifying and reaching out to children at special risk. Street children.* The Committee previously noted the increasing number of street children and the lack of a systematic and comprehensive strategy to protect them. It also noted the establishment of centres for the rehabilitation of street children and other vulnerable groups in the provinces of Punjab, Sindh and KPK. It further noted the Government's information that the KPK Government had established a special centre for street children which provides street children with education, health, recreation, sports, boarding, food, career and psychological counselling, and other necessary facilities. However, the Committee noted, from the concluding observations of the CRC of 11 July 2016, that children living or working on the streets, or whose parents were in conflict with the law, were often dealt with by the police rather than trained staff in child protection centres (CRC/C/PAK/CO/5, paragraph 73). The Committee requested the Government to strengthen its efforts to protect street children and to provide information on the measures taken in this regard.

The Committee notes an absence of information in the Government's report on this issue. The Committee observes that according to information available in a 2019 report of the United Nations, entitled *Pakistan's street children*, somewhere between 1.2 and 1.5 million children are thought to be on the streets of Pakistan's major cities. These children, who often have little or no contact with their families, form one of the most vulnerable strata of society and are denied basic rights such as access to shelter, education and healthcare. These children are highly exposed to the risk of being drawn into abusive situations including engagement in child labour and subjection to sexual exploitation, trafficking and arbitrary arrest and detention. *Recalling that street children are particularly vulnerable to the worst forms of child labour, the Committee urges the Government to take effective and time-bound measures to protect and withdraw these children from engaging in the worst forms of child labour and provide for their rehabilitation and social integration. It requests the Government to provide information on the specific measures undertaken and the results achieved in this regard, particularly the number of street children benefiting from shelter and other rehabilitative services.*

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

## Papua New Guinea

### *Minimum Age Convention, 1973 (No. 138) (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 2020, 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 plan of action and application of the Convention in practice.* The Committee previously noted the comments made by the International Trade Union Confederation (ITUC) that child labour occurred in rural areas, usually in subsistence agriculture, and in urban areas in street vending, tourism and entertainment. It noted that Papua New Guinea was one of the 11 countries that participated in the 2008–12 ILO–IPEC *Time-bound Programme* entitled “Tackling child labour through education” (TACKLE project) which aimed at contributing to the fight against child labour.

The Committee notes from the Government's report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that within the framework of the TACKLE project, a rapid assessment was carried out in Port Moresby targeting children working on the streets and those involved in commercial sexual exploitation. The Committee notes the Government's statement that the findings of the rapid assessment conducted in Port Moresby were alarming and that it is believed that a similar child labour situation is occurring in other regions of the country. The rapid assessment findings indicate that children as young as 5 and 6 years of age are working on the streets and about 68 per cent of them worked under hazardous conditions. About 47 per cent of the street children between 12 and 14 years of age have never been to school and a further 34 per cent had dropped out of school. The Committee expresses its *deep concern* at the situation of children under 16 years of age who are compelled to work in Papua New Guinea. *The Committee, therefore, urges the Government to strengthen its efforts to improve the situation of children working under the age of 16 years and to ensure the effective elimination of child labour. Noting that there is no concrete or reliable data reflecting*

*the real situation of children in the rest of the country, the Committee urges the Government to undertake a national child labour survey to ensure that sufficient up-to-date data on the situation of working children in Papua New Guinea is available.*

*Article 2(1). Minimum age for admission to employment.* The Committee had previously noted that, although the Government of Papua New Guinea had declared 16 years to be the minimum age for admission to employment or work, section 103(4) of the Employment Act permits a child of 14 or 15 years to be employed during school hours if the employer is satisfied that the child is no longer attending school. It also noted that, by virtue of sections 6 and 7 of the Minimum Age (Sea) Act, 1972, the minimum age to perform work on board ships is 15 years and 14 years, respectively.

The Committee notes the Government's information that the Australian Assistance for International Development through its Facilities and Advisory Services in close consultation with the ILO-IPEC and the Department of Labour and Industrial Relations has undertaken a review of the Employment Act and that the amendment process is ongoing. It also notes the Government's indication that this process will also address the issue related to the minimum age stipulated under the Minimum Age (Sea) Act, 1972. *Noting that the Government has been referring to the review of the Employment Act and the Minimum Age (Sea) Act for a number of years, the Committee once again urges the Government to take the necessary measures to ensure that the proposed amendments are adopted in the near future. In this regard, it expresses the hope that the amended provisions will be in conformity with Article 2(1) of the Convention.*

*Article 2(3). Age of completion of compulsory education.* The Committee previously noted that education is neither universal nor compulsory in Papua New Guinea, and that the law does not specify a legal age for entering school or an age at which children are permitted to leave school. It noted that the Education Department has developed a ten-year National Education Plan for 2005–15 (NEP) to enable more children to be in school. However, the Committee observed that the NEP seemed intended to make only three years of basic education compulsory up to the age of 9. Moreover, the Committee noted that according to the ITUC, the gross primary enrolment rate was 55.2 per cent, and only 68 per cent of these children remain at school up to the age of 10, while only less than 20 per cent of the country's children attend secondary school.

The Committee notes from the Government's report under Convention No. 182 that the NEP is being supported by donor agencies to implement programmes focusing on formal education and non-formal education (NFE), including assistance from the Asian Development Bank and the European Union in order to extend the NFE to the needy and the disadvantaged. The Committee notes, however, that according to the findings of the rapid assessment conducted in Port Moresby during 2010–11, although educational reforms are in place, 92.2 per cent of those children who enrolled in grade 3 would drop out along the way. The Committee expresses its *deep concern* at the significant number of children under the minimum age of admission to work who are not attending school. In this regard, the Committee must emphasize the desirability of linking the age of completion of compulsory schooling with the minimum age for admission to work, as provided under Paragraph 4 of the Minimum Age Recommendation, 1973 (No. 146). If compulsory schooling comes to an end before young persons are legally entitled to work, there may arise a vacuum which opens the door to the economic exploitation of children (see 2012 General Survey on the fundamental Conventions concerning rights at work, paragraph 371). *Therefore, considering that compulsory education is one of the most effective means of combating child labour, the Committee urges the Government to take the necessary measures, particularly within the framework of the NEP, to provide for compulsory education for boys and girls up to the minimum age for admission to employment of 16 years. The Committee requests the Government to provide information on the progress made in this regard.*

*Article 3(1) and (2). Minimum age for admission to, and determination of, hazardous work.* In its previous comments, the Committee noted that while certain provisions of the national legislation prohibit hazardous work for children under the age of 16 years, there exist no provisions protecting children between the ages of 16–18 years from hazardous work. The Committee also noted the absence of any list of types of hazardous work prohibited to children under the age of 18 years.

The Committee notes from the Government's report that the ongoing legislative review of the Employment Act will ensure the compliance of the provisions of the Convention related to hazardous work. *The Committee expresses the firm hope that the amendments to the Employment Act, which will include a prohibition on hazardous work for children under the age of 18 years as well as a determination of types of hazardous work prohibited to such children, will be adopted in the near future. It requests the Government to provide information on any progress made in this regard.*

*Article 3(3). Admission to types of hazardous work from the age of 16 years.* The Committee previously noted that the conditions of work for young people would be examined through the ongoing Employment Act review and that the legislation relating to occupational safety and health shall also be reviewed in a way to ensure that hazardous work does not affect the health and safety of young workers. *The Committee once again expresses the strong hope that the review of the Employment Act and of the legislation pertaining to occupational safety and health will be completed as soon as possible. It also hopes that the amendments made to the legislation will include provisions requiring that young persons between 16 and 18 years of age who are authorized to perform hazardous types of work receive adequate specific instruction or vocational training in the relevant branch of activity. It requests the Government to provide information on the progress made in this regard in its next report.*

*Article 9(3). Registers of employment.* The Committee previously noted that the Employment Act does not contain any provision requiring the employer to keep registers and documents of people under the age of 18 working for them. It also noted that section 5 of the Minimum Age (Sea) Act provides for registers to be kept by people having command or charge of a vessel, which contains particulars such as the full name, date of birth, and the terms and conditions of service of each person under 16 years of age employed on board the vessel. The Committee requested the Government to take the necessary measures to ensure that, in conformity with Article 9(3) of the Convention, employers are obliged to keep registers that shall contain 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 notes the Government's information that this issue will be addressed within the review of the Employment Act. *The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure that employers are obliged to keep register of all persons below the age of 18 years who work for them and to provide information with regard to the progress made in ensuring that the Employment Act and the Minimum Age (Sea) Act are in conformity with Article 9(3) of the Convention.*

*The Committee urges the Government to strengthen its efforts to ensure that, during its review of the Employment Act and the Minimum Age (Sea) Act, due consideration is given to the Committee's detailed comments on the discrepancies between national legislation and the Convention. The Committee requests the Government to provide information on any progress made in the review of these Acts in its next report and invites the Government to consider seeking technical assistance from the ILO.*

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: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a). Sale and trafficking of children.* The Committee previously noted that the Criminal Code only provided protection to girls trafficked for the purpose of sexual exploitation and that there appeared to be no provisions protecting boys or prohibiting the sale and trafficking of children for the purpose of labour exploitation. In this regard, it noted the Government's indication that it was addressing this issue through the adoption of the People Smuggling and Trafficking in Persons Bill which would amend the Criminal Code to include a provision prohibiting human trafficking, including children under the age of 18 years, for labour and sexual exploitation. The Committee, therefore, urged the Government to take the necessary measures to ensure the adoption of the People Smuggling and Trafficking in Persons Bill, without delay.

The Committee notes with *satisfaction* that the People Smuggling and Trafficking in Persons Bill, which contains a specific provision prohibiting the sale and trafficking of all children for labour and sexual exploitation, has been enacted as the Criminal Code (Amendment) Act of 2013. The Committee notes that section 208C(2) of the Criminal Code (Amendment) Act of 2013 makes it an offence to recruit, transport, transfer, conceal, harbour or receive any person under the age of 18 years with the intention of subjecting them to exploitation. The penalties include imprisonment for a term not exceeding 25 years. The term "exploitation" as defined under section 208E includes prostitution or other forms of sexual exploitation, forced labour or services, and slavery and servitude. The Committee notes that according to a report entitled *Transnational Organized Crime in the Pacific: A Threat assessment, 2016* by the United Nations Office on Drugs and Crime (UNODC report), Papua New Guinea is a key source and destination country for men, women and children trafficked for forced labour and sexual exploitation. ***The Committee requests the Government to take the necessary measures to ensure the effective implementation of the Criminal Code (Amendment) Act, in particular to ensure that 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 practice. It requests the Government to provide information on the number of investigations, prosecutions, convictions and penal sanctions applied for the offences related to the trafficking of children under 18 years of age pursuant to section 208C(2) of the Criminal Code (Amendment) Act.***

*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 the national legislation does not specifically prohibit the use, procuring or offering of a child for the production and trafficking of drugs. It noted the Government's indication that the offences related to the use, procuring or offering of a child for illicit activities would be dealt with in the People Smuggling and Trafficking in Persons Bill.

The Committee notes the Government's statement that the offences related to the use, procuring or offering of a child for illicit activities are interpreted as slavery or practices similar to slavery and are severely penalized under section 208C(2) of the Criminal Code (Amendment) Act of 2013. The Committee, however, notes that section 208C(2) deals with offences related to trafficking in children and does not constitute a prohibition on the use, procuring or offering of a child for the production and trafficking of drugs. The Committee recalls that, by virtue of *Article 3(c)* of the Convention, the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs constitutes one of the worst forms of child labour and is therefore prohibited for children below 18 years of age. ***The Committee therefore urges the Government to take the necessary measures to prohibit the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs, and sanctions envisaged. It requests the Government to provide information on any measures taken in this regard.***

*Articles 3(d) and 4(1). Hazardous work and determination of these types of work.* The Committee notes the Government's information that one of the key activities identified for implementation under the recently adopted National Action Plan to Eliminate Child Labour 2017–20 is to formulate a list of types of hazardous work prohibited to children under the age of 18 years. ***With regard to the minimum age for admission to hazardous work and 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 Minimum Age Convention, 1973 (No. 138).***

*Article 7(2). Effective and time-bound measures. Clause (e). Taking into account the special situation of girls.*  
1. *Child victims of prostitution.* The Committee previously noted that, according to the findings of the rapid assessment conducted in Port Moresby an increasing number of girls were involved in prostitution. The most common age at which girls were engaged in prostitution was 15 years (34 per cent), while 41 per cent of the children were involved in prostitution before the age of 15 years. The survey report further indicated that girls as young as 10 years were also involved in prostitution. The Committee urged the Government to take effective and time-bound measures to provide the necessary and appropriate direct assistance to remove children, particularly girls under 18 years of age from prostitution, and provide for their rehabilitation and social integration.

The Committee notes with *regret* that the Government has not provided any information in this regard. The Committee notes from the UNODC report that children's involvement in prostitution is substantially increasing in Papua New Guinea, and an estimated 19 per cent of the country's labour market is comprised of child labourers many of whom are subject to prostitution and forced labour. The Committee once again expresses its *deep concern* at the prevalence of the prostitution of children in Papua New Guinea. ***The Committee therefore urges the Government to take effective and time-bound***

*measures to provide the necessary and appropriate direct assistance to remove children, particularly girls under 18 years of age from prostitution, and to provide for their rehabilitation and social integration. It requests the Government to provide information on the measures taken in this regard and on the results achieved.*

2. *“Adopted” children.* In its previous comments, the Committee noted the observation of the International Trade Union Confederation (ITUC) that indebted families sometimes pay off their dues by sending children – usually girls – to their lenders for domestic servitude. The ITUC indicated that “adopted” children usually worked long hours, lacked freedom of mobility or medical treatment, and did not attend school. The Committee also noted the Government’s indication that the practice of “adoption” is a cultural tradition in Papua New Guinea. In this regard, the Committee noted the Government’s reference to the Lukautim Pikinini Act of 2009, which provided for the protection of children with special needs. The Committee requested the Government to take immediate and effective measures to ensure, in law and in practice, that “adopted” children under 18 years of age are not exploited under conditions equivalent to bonded labour or under hazardous conditions.

The Committee notes with *regret* that the Government report contains no information on this point. The Committee notes that Lukautim Pikinini Act of 2015, which repealed the Lukautim Pikinini Act of 2009, contains provisions to protect and promote the rights and well-being of all children, including children in need of protection and children with special needs who are vulnerable and subject to exploitation. This Act establishes penalties including imprisonment and fines to any person who causes or permits a child to be employed in hazardous conditions (section 54); or abuses, ill-treats or exploits children (section 78); or unlawfully subjects a child to a social or customary practice that is harmful to a child’s well-being (section 80). *The Committee urges the Government to take immediate and effective measures, including through the effective implementation of the Lukautim Pikinini Act, to ensure, that “adopted” children under 18 years of age are not exploited under conditions equivalent to bonded labour or under hazardous conditions, taking account of the special situation of girls. It requests the Government to provide information on the measures taken in this regard and on the results achieved, including the number of children who have been prevented and withdrawn from such exploitative situations.*

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

## Paraguay

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2004)**

The Committee notes the observations of the Central Confederation of Workers (Authentic) (CUT-A), received on 30 August 2019.

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted that 22.4 per cent of children and young persons under 18 years of age (around 417,000) were engaged in work below the minimum age for admission to employment or were in one of the worst forms of child labour (16.3 per cent of 5–13 year olds and 36.8 per cent of 14–17 year olds). Boys in rural areas were the category most affected (43.4 per cent of children and young persons under 18 years of age in this category were involved in child labour). The Committee expressed concern at the high number of children and young persons engaged in an economic activity below the minimum age for admission to employment and in hazardous types of work. It noted that the Government had not provided any new statistics on the extent of child labour in the country and asked it to send statistics on the nature and extent of child labour in the country.

The Committee notes the observations of the CUT-A on the findings of the first “Survey of child labour in rural areas” (ETI Rural), which, it claims, has recorded important data on the situation of child labour in the sectors where it is most widespread but that these data have not yet been the subject of specific measures or actions taken by the Government.

The Committee notes the indication in the Government’s report that the Secretariat for Children and Young Persons (SNNA) has been elevated to the rank of Ministry (Act No. 6174/18) with the title of Ministry of Children and Young Persons.

The Committee notes the adoption of the National Strategy for the Prevention and Elimination of Child Labour and the Protection of Young Workers 2019–24 (ENPETI) by the National Council for Children and Young Persons (Decision CNNA No. 1719). The strategic elements of the strategy are to: (i) coordinate public policies for the care of children engaged in the worst forms of child labour or in situations of risk; (ii) generate income for families; (iii) conduct awareness-raising and training for families and key players in society with regard to the rights of girls, boys and young persons, and with regard to the worst forms of child labour; and (iv) ensure that education is of high quality and provided free of charge.

The Committee notes the ongoing nature of the *Tekopora* programme (for conditional financial transfers) implemented by the Ministry of Social Development and aimed at households in situations of extreme poverty. The programme gives priority to girls and boys under 14 years of age and to young persons between 15 and 18 years of age. It comprises different modules for inclusion, conditional money transfers and social, family and community support. A total of 163,053 families including 27,830 families from indigenous communities have benefited from the programme.

The Committee duly notes the detailed statistics on the results of the various programmes under way between August 2018 and August 2019 in the appendix to the Government’s report (DGPNA No. 13/19), originating from the Department

for Children and Young Persons: (i) 1,200 young persons have benefited from the “Protected vocational training” programme, which replaces the “Young apprentices in the national service for vocational promotion” programme, via Decision No. 1600/2019; (ii) the “Education” section of the *Okakua* project has benefited 964 children between 5 and 10 years of age in the department of Guairà, 120 children in the department of Boquerón, and 356 children considered to be at risk have received tutorial support at home; and (iii) in the context of the *Sapea* project, 537 young persons have received instruction in some 20 different types of training and 73 per cent of the beneficiaries are girls. ***While noting the Government’s efforts in the various programmes aimed at the elimination of child labour, the Committee requests the Government to continue its efforts to improve the situation of children in the country. It also requests the Government to send the results of the ETI Rural.***

*Article 3(1). Minimum age for admission to hazardous types of work. Domestic work.* The Committee previously noted the adoption of Act No. 5407/15 of 13 October 2015, which sets the minimum age for access to any type of employment as a domestic worker at 18 years. The Committee asked the Government to provide information on the application of the Act in practice, including on monitoring mechanisms put in place to ensure its effective application, on infringements detected and on penalties imposed.

The Committee notes the observations of the CUT-A indicating that the employment of girls under 18 years of age, as home care companion or childcarer, remains widespread throughout the country, especially in remote regions such as Chaco and the north. The CUT-A emphasizes that the Government has so far not adopted any measures or taken any action to improve their conditions.

The Committee notes the indications in the Government’s report that the Ministry of Labour, Employment and Social Security collaborates with the Department for the Promotion of Women at Work. Since 2014, the domestic employees assistance centre, an offshoot of the Labour Affairs Service, has been in existence with the mission of providing comprehensive advice to workers, employers, enterprises and the general public on the application of the labour regulations in force and other legislation which affect domestic workers. In 2015, with the adoption of Act No. 5407/15 on domestic work and its subsequent implementing regulations, a procedure for action was established, which is currently in force and enables comprehensive and confidential advice to be given to domestic workers, and also provides them with the necessary administrative channels to file complaints in the event of violations of their rights at work. ***The Committee once again requests the Government to provide information on the application of the Act in practice, especially on monitoring mechanisms established to ensure the effective application of the Act, on infringements detected and the penalties imposed.***

*Article 8. Artistic performances.* In its previous comments, the Committee asked the Government take the necessary measures to ensure that children under 14 years of age who participate in artistic performances only do so on the basis of individual authorizations granted by the competent authorities, which limit the number of hours of work and the conditions in which it is permitted, in accordance with *Article 8* of the Convention. It also asked the Government to provide detailed information on the content of the declaration approved by the Executive Unit of the Regional Plan for the Elimination of Child Labour in Common Market of the Southern Cone (MERCOSUR) countries.

The Committee notes the observations of the CUT-A indicating that labour inspection controls are not effective with regard to young persons whose work involves performance, including football, music and acting.

The Committee notes the MERCOSUR recommendations to States parties, in the Government’s report, relating to the prevention and elimination of child labour in artistic settings (MERCOSUR CMC/REC.N/02/15). These recommendations contain a series of measures aimed at establishing uniform criteria for granting permits for artistic work, as follows: (i) the work permit must be issued by the competent authority; (ii) the parents(s) or guardian(s) must also give their permission; (iii) a certificate of physical fitness for any artistic activity must be issued by the competent authority and taken into account; (iv) school-age children must have a certificate of good school attendance and the artistic activity must on no account be detrimental to school attendance; (v) any artistic activities that are likely to harm the physical, moral or psychological development of children are prohibited; (vi) hours of work must occur during the daytime, must be appropriate to the age of the children concerned, and must include any breaks, tests or auditions; (vii) allowance must also be made for leisure and relaxation time; and (viii) the presence of the parents(s)/guardian(s) must be guaranteed during performances by children in order to preserve their rights. The MERCOSUR recommendations also encourage the establishment of a national register for artistic work by children in order to monitor that the rights, health and education of children who work in this field are ensured; MERCOSUR also recommends that no images of children be used in government publicity. ***The Committee requests the Government to take steps, in the context of the MERCOSUR recommendations, to guarantee that children under 14 years of age who participate in artistic performances only do so on the basis of individual authorizations issued by the competent authorities, which limit the number of hours of work and the conditions in which it is permitted, in accordance with Article 8 of the Convention.***

*Article 9(1). Penalties and labour inspection.* In its previous comments, the Committee asked the Government to reinforce the capacities of the labour inspectorate with a view to improving its capacity to detect cases of child labour. It once again asked the Government to provide information on the number and nature of the penalties imposed for violations of the provisions of the Labour Code relating to child labour and of Decree No. 4951 approving the list of hazardous types of work.

The Committee notes that 26 labour inspectors have been trained in occupational safety and health. It also notes, in the appendices to the Government's report, decisions of the Department of Labour Inspection concerning penalties imposed for violations reported at work. The Committee also notes that 75 labour inspections were carried out following reports of infringements. Further to these 75 inspections, 20 workers received compensation from the employer. However, the Committee notes the absence of information on inspections carried out in relation to child labour.

The Committee notes that ENPETI 2019–24, adopted by Decision No. 01/2019, uses follow-up indicators decided on a consensual, tripartite basis. **Recalling once again the importance of an effective labour inspection system for the application of the Convention, the Committee requests the Government to provide information on the number and nature of penalties imposed for violations of the provisions of the Labour Code relating to child labour and of Decree No. 4951 approving the list of hazardous types of work.**

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)**

The Committee notes the observations of the Central Confederation of Workers Authentic (CUT-A), received on 30 August 2019.

*Articles 3(a) and (b), and 7(1) of the Convention. Sale and trafficking of children, and the use, procuring or offering of a child for prostitution, and penalties.* In its previous comments, the Committee requested the Government to intensify its efforts to take immediate and effective action to ensure the elimination in practice of the sale, trafficking and sexual exploitation of children and young persons under 18 years of age. The Committee requested the Government to provide information on the number of offences reported, investigations conducted, prosecutions, convictions and penal sanctions imposed.

The Committee notes the observations of the CUT-A indicating that, although the National Programme for the Prevention and Combating of Trafficking and Care for its Victims has had its own funding since 2018, the budget was reduced in 2019 and it does not provide adequate care to the victims. The CUT-A indicates that the secure online complaint system is not operational and the Public Prosecutor's Office does not contribute to raising awareness of the system among the population.

The Committee notes the Government's indication that, according to the Ministry for Women (MINMUR), the investment fund for the national programme for the prevention and combating of trafficking and care for its victims was included in the national budget for the first time in 2018 and the next programme is being formulated.

The Committee also notes the various awareness-raising campaigns established under the National Policy for Children and Young Persons 2014–24, as one of the means of protection and reporting the trafficking of children and the sexual exploitation of girls, boys and young persons. These measures include campaigns against sexual exploitation in tourism such as "I live in Encarnación, I protect the rights of children and adolescents", "Together we protect children and young people # to the rhythm of the carnival" and "I experienced the carnival, I protect 147".

The Committee notes the legal procedures dealt with by the Ministry of Public Defence with regard to minors. In the first half of 2018, some 17,401 cases were examined by the juvenile court, and 12,765 in the second half of the year. However, the Committee notes that the Government has not provided information concerning the penalties imposed on the perpetrators of the crimes of sale, trafficking and sexual exploitation of children in relation to the information provided on the number of legal procedures dealt with by the Ministry of Public Defence. **While noting the measures taken by the Government, the Committee urges the Government to intensify its efforts to take immediate and effective action to ensure the elimination in practice of the sale, trafficking and sexual exploitation of children under 18 years of age. It urges the Government to ensure that in-depth investigations and robust prosecutions are conducted against persons engaged in such acts and that sufficiently effective and dissuasive sanctions are imposed. The Committee once again requests the Government to provide information on the number of offences reported, investigations conducted, prosecutions, convictions and penal sanctions imposed.**

*Article 5. Monitoring mechanisms. Trafficking and sexual exploitation.* In its previous comments, the Committee noted that the Government had carried out inspections in the border zones with Brazil and Argentina, within the framework of the Regional Plan for the Elimination of Child Labour in MERCOSUR countries. The Committee requested the Government to continue its efforts to strengthen the capacities of law enforcement agencies, with a view to improving their ability to detect cases of trafficking and sexual exploitation of children.

The Committee notes that the CUT-A expressed concerns that government controls are still very weak in the face of the trafficking in children phenomenon.

The Committee notes the Government's indication in its report that, regarding complaint mechanisms and other services, the Specialized Unit to Combat Trafficking in Persons and the Sexual Exploitation of Children and Young Persons has implemented a system to receive complaints from children and young persons, in coordination with the Ministry of Foreign Affairs, the MINMUR, the Ministry for Children and Young Persons (MINNA) and the national police. Since 2013, 458 complaints have been lodged with the Unit. The MINNA has a toll-free hotline, "Fono Ayuda 147", that provides care and guidance over the telephone in situations involving children and adolescents. This hotline specializes in psychological, social and legal support in cases of vulnerability and/or the violation of children's rights.

The Committee also notes the cooperation between Paraguay and Colombia and the collaboration with Argentina in the context of bilateral cooperation agreements for the prevention, investigation and detection of cases of trafficking in persons, with a view to strengthening coordination and action against cross-border trafficking in persons. **The Committee once again requests the Government to continue its efforts to strengthen the capacities of law enforcement agencies, with a view to improving their ability to detect cases of trafficking and sexual exploitation of children. The Committee requests the Government to provide information on the results achieved through the ongoing bilateral cooperation programmes.**

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing children from becoming engaged in and removing them from the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation.* In its previous comments, the Committee noted a lack of programmes for the reintegration of child victims of sale, prostitution and pornography and an absence of information on the results of the National Plan for the Prevention and Elimination of the Sexual Exploitation of Children and Young Persons (2012–17). The Committee requested the Government to provide information on the results achieved through the implementation of the National Plan.

The Committee notes the information in the Government's report on the results of the programme for the comprehensive care of children and young persons who are victims of trafficking and sexual exploitation between 2017 and 2018. Some 664 children and young people received care. The interventions and actions were carried out in coordination with the institutions of the National System for Comprehensive Care, the Public Prosecutor's Office, the judiciary, shelters, educational institutions and health centres. The Rosa Virginia shelter has a specialized programme for girls and young persons who are victims of trafficking and sexual exploitation. At the shelter, they receive psychological and medical assistance, food and other support. To date, 79 girls have been returned to their families.

The Committee notes that, in 2016, the Specialized Unit to Combat Trafficking in Persons and the Sexual Exploitation of Children and Young Persons of the Public Prosecutor's Office provided assistance to 82 victims, (of which 74 are women and 40 are minors) on the basis of 61 requests for intervention. The main types of offences against minors are procuring for sexual activities and pornography. In 2017, the Public Prosecutor provided assistance to 60 child victims of offences punishable by law. In 2018, a total of 110 victims received assistance, including 67 girls and seven boys.

In 2019, the MINNA opened a second protection centre for children and young persons who are victims of trafficking and sexual exploitation in collaboration with the governorate of the Central Department. **The Committee requests the Government to continue to provide information on the results achieved through the implementation of the national programme and the results of the National Plan 2012–17, indicating the number of children removed from the worst forms of child labour who have benefited from these measures.**

*Article 7(2)(d). Children at special risk and labour inspection. Children engaged in domestic work – the “criadazgo” system.* The Committee previously noted the high number of children who are still working under the *criadazgo* system, and requested the Government to intensify its efforts to combat the exploitation of child labour within its context.

The Committee notes the observations of the CUT-A regarding a lack of legal proceedings related to the *criadazgo* system, specifically in the region of Chaco. The CUT-A indicates that this concern has been repeatedly raised with the Government.

The Committee notes that the MINNA conducted a campaign to combat the practice of children living and performing domestic work in the homes of others in exchange for housing, food and education. This campaign is called “No to *criadazgo*, respect my rights” and aims to raise the awareness of the population of the importance of eliminating the domestic work of children. The Committee notes that, since 2015, domestic work by children has been prohibited under Act No. 5407/2015 and administrative penalties (provided for under section 389 of the Labour Code) may be applied. However, the Committee notes with **concern** the Government's failure to provide information on action taken by the labour inspectorate and the specific penalties imposed in the context of the *criadazgo* system. **The Committee urges the Government to intensify its efforts to combat the exploitation of child labour within this context. The Committee requests the Government to provide information on the action envisaged to protect and remove these children from the worst forms of child labour, and to ensure their rehabilitation and social integration, and on the results achieved. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to the labour inspectors to detect cases of child victims of the *criadazgo* system. Please provide information on the violations detected and the penalties imposed.**

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

## Peru

### Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2002)

*Articles 3(a) and (b), and 7(2)(a) and (b) of the Convention. Sale, trafficking and commercial sexual exploitation of children and effective and time-bound measures to prevent the engagement of children in the worst forms of child labour, to remove them from these forms of child labour and to ensure their rehabilitation and social integration.* The Committee previously requested the Government to take immediate and effective measures to ensure the rehabilitation and social

integration of child victims of trafficking and commercial sexual exploitation. The Committee also once again requested the Government to ensure that thorough investigations are conducted and robust prosecutions undertaken of persons who employ children in the worst forms of child labour and that sufficiently effective and dissuasive penalties are imposed upon them in practice.

The Committee takes due note of the Government's indication of the adoption of Act No. 30925 of 5 April 2019, which reinforces that establishment of temporary shelters for victims of trafficking in persons and sexual exploitation. It also notes the adoption of Act No. 3082 of 26 June 2018, which sets out the conditions for the entry of girls, boys and young people into shelters to guarantee their protection and safety. The Act also penalizes providers of tourist services in cases where they facilitate or permit the sexual exploitation of children in their establishments or do not report to the competent authority acts related to the sexual exploitation of children. The Committee also notes the two decisions adopted by the Ministry of Foreign Trade and Tourism: the first decision (No. 430-2018-MINCETUR) approves a code of conduct to combat the sexual exploitation of girls, boys and young people in the field of tourism, intended for providers of tourist services; the second decision (No. 299-2018-MINCETUR) concerns the content of posters to be placed in tourist establishments which shall contain information relating to sexual exploitation, as well as the legal provisions establishing criminal penalties for offences related to the sexual exploitation in the tourism sector of girls, boys and young persons.

The Committee notes the executive report of the Information Department of judicial authorities specializing in organized crime and in the crime of trafficking in persons. This report indicates that 42 per cent of the victims of trafficking are children and that exploitation through labour and sexual exploitation were the principal types of trafficking between 2016 and 2019. During this period, there were 77 child victims of trafficking, aged between 0 and 5 years, 256 child victims of trafficking aged between 6 and 11 years and 1,435 child victims of trafficking aged between 12 and 17 years. The Committee also notes that, according to the information systems of the Office of the Public Prosecutor, a total of 163 complaints were registered in 2018 by the judicial authorities in the various provinces of the country concerning crimes relating to the sexual exploitation of children.

The Committee notes the action taken for the psychosocial support of victims of trafficking for sexual exploitation in emergency centres for women, within the framework of the National Programme to Combat Family and Sexual Violence of the Ministry of Women and Vulnerable Peoples. The emergency centres for women also provide support for legal procedures to facilitate access to justice, the imposition of penalties on aggressors and the compensation of victims. Between January and April 2019, a total of 23 girls under 18 years of age who were victims of sexual exploitation benefited from the emergency centres for women. The Protection Department of the General Directorate for Girls, Boys and Young People also offers immediate support for child victims of trafficking through the establishment of 17 special protection units throughout the country. In 2018, the specialized teams of the special protection units provided support for 128 child victims of trafficking (112 girls and 16 boys) and, between January and March 2019, the special protection units have supported 60 child victims of trafficking (54 girls and six boys). The regions of Lima and Madre de Dios also have residential centres for girls and young persons who are victims of trafficking in persons. These centres provide individual and adapted care according to the needs of the victims and have multidisciplinary teams which take action with a view to family reintegration when that contributes to the welfare of the victim. Between January and March 2019, the centres provided support for 84 young victims of trafficking in persons. Finally, the Committee notes that the Government has trained 607 operators for the residential centres from areas with high rates of sexual exploitation, and 153 operators in referral hospitals in Lima specializing in the issue of the sexual exploitation of girls, boys and young people. ***While noting the efforts made by the Government to ensure that support is provided for child victims of trafficking and commercial sexual exploitation, the Committee once again requests the Government to ensure that thorough investigations and prosecutions are carried out on persons engaging in such acts and that sufficiently effective and dissuasive sanctions are imposed in practice. It once again requests the Government to provide information on the number of convictions and penalties imposed against such persons.***

*Articles 3(d) and 7(2)(a) and (b). Hazardous types of work and effective and time-bound measures to prevent the engagement of children in the worst forms of child labour, to remove them from these forms of child labour and to ensure their rehabilitation and social integration.* 1. *Child labour in artisanal mines.* The Committee previously requested the Government to intensify its efforts to protect children involved in hazardous work in mines. It also requested the Government to provide information on the measures adopted and the results achieved in the context of the implementation of the National Strategy for the Prevention and Eradication of Child Labour 2012–21 (ENPETI) for the withdrawal of children under 18 years of age from hazardous work in artisanal mines and for their rehabilitation and social integration.

The Committee notes from the Government's report the approval of the second version, of 7 May 2019, of the action protocol for the group of labour inspectors specializing in forced labour and child labour. The new version of the protocol gives priority to strengthening the capacities of inspectors in relation to the worst forms of child labour and also promotes collaboration between the National Supervisory Authority of Labour Inspection (SUNAFIL), the national police, the Offices of the Public Prosecutor and of the Attorney-General, and the Office of the Defender of the People, in accordance with their specific areas of competence.

The Committee also notes the Government's indication that a text regulating the procedure for the authorization of work by young people is awaiting validation by the Ministry of Labour and Employment Promotion. Regional labour departments will have to carry out an evaluation of the activities involved and the arrangements for work by young people.

This evaluation will also serve as a basic register for the labour inspection activities of the SUNAFIL in relation to employers who engage young persons in work. However, the Committee notes with **concern** that the Government has not provided information on the protection of children engaged in hazardous work in mines. ***In this respect, the Committee once again requests the Government to provide information on the measures adopted and the results achieved, in the context of the implementation of the ENPETI and multisectoral action to remove children under 18 years of age from hazardous work in artisanal mines and to ensure their rehabilitation and social integration.***

2. *Child domestic labour.* The Committee previously requested the Government to take the necessary measures to strengthen the capacity for action of the labour inspection services to prevent children engaged in domestic work from being involved in hazardous types of work, to remove them from such work and ensure their rehabilitation and social integration. It also once again requested the Government to provide information on the results achieved.

The Committee notes that the Government is currently engaged in reinforcing the capacity for action of labour inspection services through the new version of the action protocol for the group of labour inspectors specializing in forced labour and child labour.

The Committee also notes that, since the beginning of 2019, only one labour inspection compliance order is under investigation to verify compliance with the regulations on child labour in the household work sector. ***The Committee once again urges the Government to take the necessary measures to strengthen the capacity for action of the labour inspection services to prevent children engaged in domestic work from being involved in hazardous types of work, to remove them from such types of work and ensure their rehabilitation and social integration. It also requests the Government to provide information on the results achieved.***

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

## Philippines

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1998)**

*Article 2(1) of the Convention. Scope of application. Children working on their own account or in the informal economy.* The Committee previously noted the results achieved following the implementation of the Campaign for Child Labor-Free Barangays, such as bringing the total number of child labour free *barangays* (villages) to 213 and removing a total of 7,584 children from child labour and placing them in schools. The Committee however, noted from the country report “Understanding child labour and youth employment outcomes in the Philippines, December 2015”, (UCW 2015 report), that child labour in the Philippines continues to affect an estimated 2.1 million children aged 5–17 years of which 62 per cent work in agriculture, about 6 per cent are self-employed and an additional 3 per cent work in private households, most likely as domestic workers. The Committee requested to pursue its efforts to ensure that children working in the informal economy or on a self-employed basis benefit from the protection of the Convention.

The Committee notes the Government’s information in its report that as of December 2018, a total of 348 *barangays* have been declared as child labour-free by the Department of Labor and Employment (DOLE), while in June 2016, the Municipality of Angono was recognized as the first child labour-free municipality. The Committee also notes the Government’s information regarding the various orders issued through DOLE to combat child labour, such as: (i) the Department Order No. 173 of 2017 on the Revised Guidelines in the implementation of DOLE Integrated Livelihood and Emergency Employment Programs (DILEEP) which provides that the beneficiaries of livelihood programmes shall not be engaged in child labour; (ii) the Department Order No. 175 of 2017 on the Implementing Rules and Regulations of Republic Act No. 10917 which provides that the beneficiaries of the Special Program for Employment of Students shall not be engaged in hazardous work; (iii) the Department Order No. 159 of 2016 which contains provisions prohibiting child labour in the sugar cane industry; and (iv) the Department Order No. 156 of 2016 on the Rules and Regulations Governing the Working and Living conditions of fishers on board fishing vessels in Commercial Fishing Operations which provides for penalties for engaging child labour in this sector. The Committee further notes from the Government’s report that one of the aims of the proposed amendments to the Republic Act of 9231 is to address child labour in the informal sector. ***Noting that a high number of children are involved in child labour in the informal sector, the Committee requests the Government to intensify its efforts to ensure that children working in the informal economy or on a self-employed basis benefit from the protection afforded by the Convention. It requests the Government to continue to provide information on the measures taken in this regard as well as the results achieved, in terms of the number of these children who are effectively protected and provided with the appropriate services.***

*Application of the Convention in practice.* In its previous comments, the Committee noted that the Government developed the HELP ME Convergence Program as a sustainable and responsive convergence programme to address child labour. It also noted that the ABK3 LEAP project (implemented by World Vision to combat exploitative child labour in the sugar cane sector through education) had achieved significant results in eliminating child labour through providing assistance and educational and livelihood support to children. The Committee requested the Government to strengthen its efforts, including through the effective implementation of the HELP ME Convergence Program, to progressively eliminate child labour.

The Committee notes the Government's information that in 2017, the Government, in collaboration with the ILO, launched several programmes to eliminate child labour, such as the Convening Actors to Reduce Child Labour and Improve Working Conditions in Artisanal and Small-Scale Gold Mining (ASGM), the CARING Gold Mining project and the SHIELD Against Child Labour project. According to the Government's report, the CARING Gold Mining project which seeks to address the problem of poverty in ASGM is piloted in Camarines Norte and South Cotabato. As of July 2019, 66 children were removed from child labour through this project. Moreover, the SHIELD Against Child Labour project which aims to eliminate child labour and its worst forms, particularly in small-scale gold mining, deep sea fishing and sugar cane industry is being implemented in four regions. In 2018, with the support of ILO, a Child Labour Local Registry (CLLR) was developed which will be used at the *barangay* level to serve as a repository of data of child labourers. The Committee notes the Government's information that within the framework of this project, a total of 596 children were identified as child labourers, of which 380 children were removed from child labour and provided with the necessary assistance. Moreover, following the implementation of the Administrative Order No. 142 of 2018 on Guidelines on the Profiling of Child Labourers and Provisions of Services to Remove them from Child Labour, the DOLE, through its 16 regional offices, has identified a total of 85,582 child labourers, from June to December 2018, of which 18,651 children have been referred to appropriate agencies, 7,941 children have been provided with services and 116 children were removed from child labour.

The Government further indicates that within the Livelihood Assistance to Parents of Child Labourers Program, up to 2018, a total of 32,507 parents of child labourers were provided with livelihood assistance. Furthermore, the *Sagip Batang Manggagawa*, an inter-agency mechanism to monitor and rescue children from child labour, conducted a total of 955 rescue operations until 2018, wherein a total of 3,565 child labourers were removed from hazardous and exploitative working conditions. The Project Angel Tree provided assistance, including school supplies, to a total of 66,256 children involved in child labour or children who are at risk of engaging in child labour. The Committee also notes from the Government's report under the Worst Forms of Child Labour Convention, 1999 (No. 182) that the National Child Labour Committee which is the central policy and coordinating mechanism for the implementation of the Philippine Program Against Child Labor agreed to target one million children to be withdrawn from child labour by 2025.

The Committee however, notes that the United Nations Committee on Economic, Social and Cultural Rights, in its concluding observations of October 2016, reiterated its concern that an estimated 1.5 million children between the ages of 5 and 14 are engaged in child labour and that half of them are working in hazardous or dangerous conditions and are exposed to various forms of exploitation (E/C.12/PHL/CO/5-6, paragraph 37). While taking due note of the measures taken by the Government to combat child labour, the Committee must express its **concern** that there remains a significant number of children engaged in child labour, particularly in hazardous conditions in the country. **The Committee therefore urges the Government to strengthen its efforts to progressively eliminate child labour. It requests the Government to continue to provide information on the measures taken in this regard, including within the framework of the Philippine Program Against Child Labor and on the results achieved.**

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). All forms of slavery or practices similar to slavery. 1. Sale and trafficking of children.* In its previous comments, the Committee noted the measures taken by the various Government departments and the Inter-Agency Council Against Trafficking (IACAT) to address cases related to trafficking of children. It requested the Government to continue its efforts to strengthen the capacity of law enforcement agencies in identifying and combating the sale and trafficking of children under 18 years of age.

The Committee notes the Government's information in its report that the Department of Labor and Employment (DOLE) issued Administrative Order No. 551 of 2018 for the Creation of the DOLE Task Force Against Illegal Recruitment, Recruitment of Minor Workers, and Trafficking in Persons to have more focused, concerted, coordinated and effective programmes of action to combat the illegal recruitment and trafficking of children. It also notes the Government's information on the number of orientation and awareness-raising activities undertaken by the DOLE concerning the worst forms of child labour. In April 2017, a Child Protection Compact Partnership was signed by the IACAT and the US Embassy to support Philippines' campaign against trafficking of children. Moreover, in October 2017, DOLE participated in a workshop conducted by the IACAT and the Australia-Asia Program to Combat Trafficking in Persons on identifying, investigating and prosecuting cases of trafficking of persons for labour exploitation. The Committee further notes from the Government's report that Republic Act No. 10821 which was adopted in May 2016, provides that upon declaration of a national and local state of calamity, the Philippine National Police, the Department of Social Welfare and Development, with the assistance from the Armed Forces shall immediately heighten comprehensive measures and monitoring to prevent trafficking of children and their exploitation in the areas declared under a state of calamity. The Committee, however, notes from the UNICEF 2016 Summary Report on Situation Analysis of Children in the Philippines that domestic and cross-border trafficking of women and children for sexual exploitation continues, with 1,465 victims of trafficking identified and assisted in 2015, and that sex tourism is reportedly on the rise. Furthermore, the Committee notes that the United Nations Committee on Economic, Social and Cultural Rights, in its concluding observations of October 2016, expressed concern at the persistently high incidence of trafficking in women and children; the very small number of prosecutions and convictions of traffickers; the insufficient level of understanding of the issues relating to trafficking and the anti-trafficking legal framework among law enforcement officials; and the allegations of complicity of law enforcement officials in the cases related to trafficking of persons (E/C.12/PHL/CO/5-6, paragraph 41). **While noting the measures taken by the Government,**

*the Committee urges the Government to intensify its efforts to eliminate in practice the trafficking of children by ensuring that thorough investigations and prosecutions are carried out for persons who engage in the trafficking of children, including state officials suspected of complicity, and that sufficiently effective and dissuasive sanctions are imposed. It requests the Government to pursue its efforts to strengthen the capacity of law enforcement agencies in identifying and combating the sale and trafficking of children under 18 years of age. The Committee further requests the Government to provide information on the number of reported violations, investigations, prosecutions, convictions and penal sanctions imposed in cases related to the trafficking of children.*

2. *Compulsory recruitment of children for use in armed conflict.* The Committee previously noted the adoption of Executive Order No. 138 on a Comprehensive Programme Framework for Children in Armed Conflict, which calls on the national agencies and local government units affected by armed conflict to integrate the implementation of the Children in Armed Conflict (CIAC) programme framework. The CIAC programme includes developing, strengthening and enhancing policies to promote the protection and prevention of children in armed conflict. It also noted from a report of the United Nations Office of the Special Representative of the Secretary-General for Children and Armed Conflict of 2016 that the majority of the benchmarks established in the action plan aimed at ending the recruitment and use of child soldiers, which was signed between the United Nations and the Moro Islamic Liberation Front (MILF) in 2009, had been reached and that the Moro Islamic Liberation Front was implementing a four-step process to identify and release all children associated with the military. However, noting from the Report of the Secretary-General on Children and Armed Conflict of April 2016 that children continued to be recruited by armed forces and groups, the Committee urged the Government to intensify its efforts to put an end, in practice, to the forced or compulsory recruitment of children for use in armed conflict, and proceed with the full and immediate demobilization of all children.

The Committee notes the Government's information that in January 2018, the President signed Republic Act No. 11188 on the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof. This Act requires the State to take all feasible measures to prevent the recruitment, re-recruitment, use, displacement of, or grave violations of the rights of children involved in armed conflict. It notes the Government's information that in order to effectively implement the provisions of Act No. 11188, an Inter-Agency Committee on Children in Situations of Armed Conflict (IAC-CSAC), chaired by the Council for the Welfare of Children and comprising representatives from various government organisations, has been created. The functions of the IAC-CSAC include, formulating guidelines and developing programmes in coordination with concerned agencies, for dealing with children involved in armed conflict and monitoring and documenting cases of capture, surrender, arrest, rescue or recovery by government forces. The Committee also notes from the 2017 UNICEF report *Children in Armed Conflict: Philippines* that the implementation of the UN–MILF Action Plan ended in July 2017 with the disengagement of nearly 2,000 children from the ranks of the MILF–Bangsamoro Islamic Armed Forces (BIAF). However, the Committee notes that the report of the Secretary-General on children and armed conflict of June 2019, referred to the recruitment and use of 19 children (ten boys and nine girls); 18 by armed groups and one by the armed forces. The United Nations also received additional allegations of recruitment and use of 13 children by the armed groups, such as the New People's Army, Maute Group and the Abu Sayyaf Group. While taking note of the measures taken by the Government, the Committee must express its *concern* at the continued use and recruitment of children by armed forces and groups. ***The Committee therefore urges the Government to continue to take the necessary measures 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 the armed forces and armed groups, including through the effective implementation of Republic Act No. 11188. The Committee 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.***

*Articles 3(b) and 7(2)(a) and (b).* *Use, procuring or offering of children for the production of pornography or for pornographic performances. Preventing children from being engaged in the worst forms of child labour, removing them from these forms of labour and ensuring their rehabilitation and reintegration. Commercial sexual exploitation of children.* The Committee notes that the Anti-Child Pornography Act of 2009 provides for the protection of children under 18 years of age from all forms of exploitation and abuse including the use of a child in pornographic performances and materials and the inducement or coercion of a child to engage or be involved in pornography through whatever means (section 2). Section 4 of the Act further prohibits a wide range of offences related to using, hiring, inducing or coercing children for the production of child pornography, and its publication, possession, distribution, and accessing of child pornography while providing for penalties of maximum imprisonment and fines to the perpetrators of such offences (section 14).

The Committee notes that according to the UNICEF Summary Report of 2016 on Situation Analysis of Children in the Philippines, cyber violence has emerged as a serious threat and that the new technologies put children at risk of online sexual solicitation and grooming. The number of children coerced, often by relatives, to perform sex acts for live streaming on the internet has increased making online child abuse the leading cybercrime in the country. This report further states that the Philippines is one of the top ten countries globally producing sexual content using children. Moreover, a document by the International Organization for Migration, entitled Human Trafficking Snapshot, Philippines, September 2018, indicates that there are tens of thousands of children being exploited and abused in cybersex dens across the Philippines. The

Committee notes with *deep concern* at the significant number of children who are subject to commercial sexual exploitation in the Philippines. ***The Committee therefore urges the Government to take the necessary measures to ensure the effective enforcement of the Anti-Child Pornography Act, by ensuring that thorough investigations and prosecutions of persons who use children in the production of pornography and in pornographic performances are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. It also urges the Government to take immediate and effective time-bound measures to prevent the engagement of children in commercial sexual exploitation as well as to remove those who are victims of such 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 and on the results achieved.***

*Articles 3(d), 4(1) and 7(2)(b). Hazardous work and time-bound measures to provide direct assistance for their removal and rehabilitation and social integration. Child domestic workers.* In its previous comments, the Committee noted the International Trade Union Confederation's (ITUC) allegations that there were at least 1 million children under the age of 18 years in domestic work, some of whom were subject to slavery-like practices or working in harmful and hazardous conditions, while some of them, especially girls, suffered physical, psychological and sexual abuses and injuries. In this regard, the Committee noted the adoption of Republic Act No. 10361 which provides for instituting policies for the protection and welfare of domestic workers as well as setting the minimum age for employment in domestic work at 15 years. It also noted that a road map for the elimination of child labour in domestic work and the provision of adequate protection for young domestic workers of legal working age was adopted and a Joint Memorandum Circular (JMC) on the Protocol on the Rescue and Rehabilitation of Abused *Kasambahay* (domestic workers) was signed by the DOLE, the Department of Social Welfare and Development, the National Bureau of Investigation and the Philippine National Police. The Committee urged the Government to strengthen its efforts to ensure the effective implementation of Republic Act No. 10361, to provide information on the implementation of the road map for the elimination of child labour in domestic work as well as the measures taken to rescue and rehabilitate abused domestic workers following the JMC on the Protocol on the Rescue and Rehabilitation of Abused *Kasambahay*.

The Committee notes the Government's information that in July 2017, the DOLE issued an Administrative Order which provides for guidelines for the effective enforcement of the rights of domestic workers under Republic Act No. 10361 as well as on the terms and conditions of employment of children under Republic Act No. 9231. It also notes the Government's information that DOLE, with support from ILO, conducted training for 35 DOLE personnel to enhance their capacity in detecting and assessing child labour incidents. In 2017, the Bureau of Workers with Special Concerns (BWSC) conducted capacity enhancement training for regional *kasambahay* focal persons in addressing the vulnerability of domestic workers. However, the Committee notes from the 2018 ILO document on Social Dialogue to Achieve Sustainable Development Goals: Formalising the Informal Economy, Country Brief, Philippines that domestic work is the largest single source of wage employment for women as well as for young workers. ***The Committee therefore strongly encourages the Government to strengthen its efforts to prevent children under 18 years from engaging in hazardous working conditions in domestic work, including through the effective implementation of the road map for the elimination of child labour. It requests the Government to provide information on the measures taken in this regard as well as on the results achieved in terms of the number of child domestic workers who have been protected or withdrawn from child labour and rehabilitated. It also urges the Government to strengthen its efforts to ensure that Republic Act No. 10361 is effectively applied and that sufficiently effective and dissuasive penalties are imposed in practice on persons who subject children under 18 years of age to domestic work in hazardous or exploitative conditions.***

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

## Saint Vincent and the Grenadines

### ***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 2020, 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(d) and 4(1). Hazardous work.* The Committee previously noted that the Employment of Women, Young Persons and Children Act (EWYPC Act), did not contain a general prohibition on the employment of children below 18 years of age in hazardous work, other than the prohibition on night work in any industrial undertaking (section 3(2)) nor a determination of hazardous types of work prohibited to children under 18 years of age.

The Committee notes the Government's indication that consultation with stakeholders to address the issues related to hazardous work by children will be commenced shortly and a draft report will be prepared by the end of 2013. ***The Committee expresses the firm hope that consultations with the stakeholders including the social partners will be held in the near future and legislation relating to the prohibition on hazardous work by children under 18 years of age as well as a regulation determining the types of hazardous work prohibited to children under the age of 18 years will be adopted soon. The Committee requests the Government to provide information on any developments made in this regard.***

*Article 7(1). Penalties.* ***The Committee requests the Government to provide information on the application in practice of the sanctions established in the Trafficking Act of 2011 for the offences related to the sale and trafficking of children and for the use, procuring and offering of children for prostitution and child pornography.***

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.*

## Samoa

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2008)**

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

*Article 2(3) of the Convention. Age of completion of compulsory education.* In its previous comments, the Committee noted that section 20 of the Education Act 2009 prohibits arranging for a compulsory school-aged child to engage in street trading or to carry out other work of any kind during school hours. However, the Committee noted that pursuant to section 2 of the Education Act 2009, a compulsory school-aged child is defined as a person between 5 years and 14 years of age, who has not completed the eighth year of school. The Committee noted the Government's statement that the provisions to raise the age of completion of compulsory schooling to 15 years will be incorporated in the Education Act after consultations with the Attorney General's Office.

The Committee notes the Government's information in its report that the Ministry of Education, Sports and Culture has started consulting with the Office of the Attorney General on the drafting of the revised Education Amendment Bill 2016 in order to incorporate a change in the age of completion of compulsory schooling. ***The Committee expresses the firm hope that the Education Amendment Bill, raising the age of completion of compulsory schooling in line with the minimum age for admission to work of 15 years, will be finalized and adopted soon. It requests that the Government provide information on any progress made in this regard.***

*Article 3(2). Determination of types of hazardous work.* In its previous comments, the Committee noted that according to section 83(2)(b) of the Labour and Employment Relations Act 2013 (LER Act of 2013), regulations may be made to determine unhealthy, dangerous or onerous work, as well as the minimum ages of entry into employment in such work.

The Committee notes the Government's statement that there is a draft list determining the types of hazardous work prohibited to children, which will be submitted to the Samoa National Tripartite Forum for endorsement. ***The Committee expresses the firm hope that the list of types of hazardous work prohibited for children under 18 years of age will be finalized and adopted in the near future. It requests that the Government provide information on any progress made in this regard.***

*Article 7(1) and (3). Minimum age for admission to light work and determination of types of light work activities.* In its previous comments, the Committee noted that section 32(1) of the Labour and Employment Act 1972 permits children under the age of 15 to engage in safe and light work suited to his or her capacity. It also noted that the Education Act 2009 appears to allow children of compulsory school age to be engaged in some types of work which do not occur during school hours and which do not prevent or interfere with the child's attendance at school, active participation in school activities or the child's educational development. The Committee observed, however, that there appeared to be no lower minimum age for engagement in such light work activities. The Committee noted the Government's indication that the Ministry of Labour would take the necessary measures to address this issue as well, as to determine the types of light work activities permitted to children between the ages of 13 and 15 years.

The Committee notes the Government's information that under section 51(1) of the new LER Act of 2013, "a person must not employ a child under the age of 15 years in a place of employment except in safe and light work suited to his or her capacity and subject to such conditions as may be determined by the Chief Executive Officer of the Ministry of Labour". The Committee, however, notes once again that this provision does not set a lower minimum age for engagement in such light work activities. It also notes the Government's statement that a list of light work is currently being reviewed for children under the age of 15 in accordance with section 51 of the LER Act of 2013 and will be submitted to the Samoa National Tripartite Forum for endorsement. ***The Committee urges the Government to take the necessary measures to bring the national laws and regulations in line with the Convention by permitting employment in light work only by young people who have reached the age of 13 years, pursuant to Article 7(1) of the Convention. It requests that the Government provide information on any progress made in this regard. It also expresses the firm hope that the Government will take the necessary measures to regulate light work activities in compliance with Article 7(3) of the Convention.***

*Article 9(3). Keeping of registers.* In its previous comments, the Committee noted that section 83(2)(a) of the LER Act of 2013 provides that regulations may be made requiring employers to keep records of persons employed in their undertakings, and prescribing the form and contents of such records. Moreover, the Committee noted that section 16 of the LER Act of 2013 states that the Chief Executive Officer of the Ministry of Labour shall have the power to require an employer to keep and produce books, registers or other documents relating to the employment of his/her employees.

The Committee notes the Government's indication that the Ministry of Commerce, Industry and Labour sent a letter of intent to remind the employers of their obligations and to obtain information on the employment of children under the age of 18 years. The Committee, however, reminds the Government that, in accordance with *Article 9(3)* of the Convention, national laws or regulations of the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer of persons whom they employ and who are less than 18 years of age. ***The Committee therefore urges the Government to take effective measures pursuant to section 83(2)(a) of the LER Act of 2013, to adopt regulations requiring employers to keep registers of all persons employed under the age of 18 years, in conformity with Article 9(3) of the Convention, and to provide the information obtained by the employers further to the letter of intent and the regulations further adopted.***

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: 2008)**

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

***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 at the 107th Session of the Conference Committee on the Application of Standards in June 2018, concerning the application by Samoa of the Convention.

*Article 3 of the Convention. Worst forms of child labour. Clause (b). Use, procuring or offering of a child for the production of pornography or for pornographic performances.* The Committee previously noted that section 82 of the Crimes Act 2013, makes it an offence to sell, deliver, exhibit, print, publish, create, produce or distribute any indecent material that depicts a child engaged in sexually explicit conduct. It observed, however, that for the purposes of this section a child is defined as a person under the age of 16 years. The Committee therefore urged the Government to take the necessary measures to ensure that the use, procuring or offering of children between the ages of 16 and 18 for the production of indecent materials is also effectively prohibited.

The Committee notes the Government's information in its report that the Ministry of Commerce, Industry and Labour (MCIL), with the technical assistance from the Samoa Technical Facility Project is carrying out a revision of the national legislation, including the Crimes Act in order to align the definition of a child with the provisions of the Convention. ***The Committee expresses the firm hope that the Government will take the necessary measures, during the revision of the national legislation, to ensure that the definition of a child under section 82 of the Crimes Act will refer to persons under the age of 18 years, so that the prohibition under this section on the production and distribution of indecent materials depicting children will include children between 16 and 18 years of age. It requests the Government to provide information on any progress made in this regard.***

*Article 4(1). Determination of hazardous types of work.* In its previous comments, the Committee noted the Government's statement that a draft list determining the types of hazardous work prohibited to children would be submitted to the Samoa National Tripartite Forum for endorsement. The Committee expressed the firm hope that the list of types of hazardous work prohibited for children under 18 years of age would be finalized and adopted in the near future.

The Committee notes that at the Conference Committee, the Employer members expressed their concern over the absence of a list of hazardous work in which the employment of young persons is prohibited.

The Committee notes with *interest* the Government's indication that the Hazardous Work List, which contains a list of types of hazardous work prohibited to children under 18 years, has been approved by the Cabinet in May 2018 and is in the process of being incorporated into the Labour and Employment Relations Regulations. The Committee notes the Government's information that this list was reviewed by the National Occupational Safety and Health Task Force and supported by the Samoa National Tripartite Forum. The Government further indicates that the MCIL has included this list in its first National Occupational Safety and Health Framework 2018 to ensure that all stakeholders take ownership in monitoring and reporting of any activities that are in breach of this list. ***The Committee expresses the firm hope that the Government will take the necessary measures to ensure that the Hazardous Work List will be enacted and enforced, without delay. It requests the Government to provide information on any progress made in this regard. The Committee also requests the Government to provide information on any cases of hazardous work by children under 18 years that have been identified and reported through the National Occupational Safety and Health Framework.***

*Article 7(2). Effective and time-bound measures. Clause (d). Reaching out to children at special risk. Children working as street vendors.* In its previous comments, the Committee noted that section 20 of the Education Act 2009 specifically prohibits the engagement of compulsory school-aged children in street trading during school hours, and that it provides for the appointment of school attendance officers, responsible for identifying children who are out of school during school hours, and returning them to school. It also noted that the Community Sector Plan of 2016–21 (CSP) provides for a platform for the development of an intervention plan to respond to the needs of vulnerable children and their families. The Committee further noted that the majority of cases regarding child vendors in the streets were mainly dealt with by the Community Engagement Unit in collaboration with the Ministry of Education, Sports and Culture (MESC) and the Ministry of Women, Community and Social Development (MWCSO), whereby parents of the children involved in street vending were held responsible, after investigation, and then charged. However, the Committee noted that, according to the ILO Rapid Assessment Report on Children working on the streets in Apia, 2017, the majority of the 106 children interviewed started working on the streets due to the fact that the family needed income (page 36). Children, as young as 7 years of age, sold food, homemade juice and razor blades in dangerous environments, and worked long hours (over five to 12 hours a day), under harsh weather conditions, to sell their products. The majority of the children work for their own family and are not aware of the social support services available to them. Noting with concern that children continued to work as street vendors, often in hazardous conditions, the Committee requested the Government to take the necessary measures to identify and protect children engaged in street vending from the worst forms of child labour.

The Committee notes that at the Conference Committee, the Employer members expressed their concern about the prevalence of under 15-year olds exploited as street vendors. Moreover, the Worker members indicated that around 38 percent of child labour in Samoa was performed by under 15-year olds, which called into question the Government's capacity and commitment to address the worst forms of child labour.

In this regard, the Committee notes the following measures taken by the Government as indicated in its report: (i) a Child Vending Task Force (CVTF), comprised of representatives from the MESC, Ministry of Police (MoP), the MCIL and the Office of the Attorney General and the Council of Churches, was established within the MWCSO to address the issues pertaining to children working as street vendors; (ii) collaborative efforts were initiated by the MWCSO along with the MoP to monitor exploitation of children in the formal and informal economy, including through regular inspections in the streets of Apia and rural areas; (iii) awareness-raising programmes on the use of children in street vending were conducted by the Ministry of Commerce, Industry and Labour for employers in Upolu and Savaii, in order to prevent them from employing children under the age of 18 to sell goods and products during school hours; (iv) the Supporting Children initiative was started by the MWCSO in March 2016 for children from vulnerable families, in order to ensure their safety through positive parenting support and providing training and financial assistance to parents for income generating projects; and (v) the Small Business Youth Incubator for Economic Development which aims to instigate programmes for small businesses and income generating projects for youth, women and vulnerable families, were initiated. The Committee notes, however, that the Committee on the Rights of the Child, in its concluding observations of 12 July 2016, expressed its concern that children continue to work as vendors and that school absenteeism remains a challenge (CRC/C/WSM/CO/2-4, paragraph 52). ***While noting the measures taken by the Government, the Committee strongly encourages it to continue its efforts to identify and protect children engaged in street trading from the worst forms of child labour. It requests the Government to continue to provide information on the measures taken in this regard as well as information on the number of child street vendors who have been removed from the worst forms of child labour, including by the CVTF and through the collaborative efforts by the MWCSO and the MoP, and provided with assistance and socially integrated.***

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.*

## Saudi Arabia

### Minimum Age Convention, 1973 (No. 138) (ratification: 2014)

*Article 2(3) of the Convention. Age of completion of compulsory schooling.* The Committee previously noted that section 162 of the Labour Law and section 34 of its implementing regulation establish that the minimum age for admission to employment or work is 15 years. However, noting that children entered school at the age of 6 and completed the compulsory education at the age of 12, the Committee requested the Government to take the necessary measures to ensure compulsory education up to the minimum age for admission to employment or work of 15 years.

The Committee notes with *satisfaction* the adoption of Ministerial Decision No. 14 of 2014 which, read jointly with Ministerial Decision No. 139 of 2004, establishes the age of compulsory education up to 15 years, in line with the minimum age for admission to employment. The Committee also notes that according to the UNESCO Institute for Statistics the net enrolment rate in primary school reached 99.77 per cent in 2018 in comparison to 96.42 per cent in 2014. ***The Committee requests the Government to provide information on the application in practice of Ministerial Decision No. 14 of 2014, including statistical information on the school enrolment and attendance rates in both primary and secondary education.***

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

## Senegal

### Minimum Age Convention, 1973 (No. 138) (ratification: 1999)

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee noted the adoption of the National Framework Plan for the Prevention and Elimination of Child Labour (PCNPETE) and the fact that draft texts were being prepared with a view to harmonizing the national legal framework. Noting with concern the high number of children engaged in child labour in Senegal who have not reached the minimum age for admission to employment of 15 years, the Committee requested the Government to intensify its efforts to combat child labour and to conduct a new national survey on child labour. In its report, the Government states that combating child labour remains a priority and highlights the development of human capital and the social protection for vulnerable groups in the Emerging Senegal Plan (PSE). This is reflected at the sectoral level in policies and programmes based on strengthening the quality of education and the protection of vulnerable groups. The Government also indicates that the PCNPETE's final evaluation has not yet been conducted and that a new national survey on child labour is not on the agenda. The Committee notes that, according to the Government's replies to the list of issues concerning the third periodic report to the United Nations Committee on Economic, Social and Cultural Rights of 26 July 2019, the lack of national surveys is an obstacle to understanding the prevalence of child labour (E/C.12/SEN/Q/3/Add.1, paragraph 85). Further, according to Senegal's Voluntary National Review on the Sustainable Development Goals of June 2018, indicator 8.7 could be covered on a regular basis in the next national statistical development strategy. ***The Committee requests the Government to intensify its efforts to combat child labour. Recalling that the PCNPETE reached its term in 2017, it requests the Government to provide information on the progress of legislative amendments and results obtained within the framework of the PCNPETE regarding the elimination of child labour, and on various projects that have been implemented. Noting that no statistical study on child labour has been conducted, the Committee also requests the Government to intensify its efforts to ensure that adequate updated data on the situation of child workers are available, particularly by conducting a new national survey on child labour.***

*Article 2(1). Minimum age for admission to employment or work.* The Committee previously noted that section L.145 of the Labour Code allows exemptions from the minimum age for admission to employment by order of the Minister of Labour, taking into account local circumstances and the activities that may be required. Reminding the Government that no one under the minimum age for admission to employment or work shall be admitted to employment or work in any occupation, and that the only possible exception is light work under *Article 7* of the Convention, the Committee urged the Government to revise the provisions of its legislation with a view to introducing the necessary amendments to ensure conformity with the provisions of the Convention and to provide copies of the draft legislative texts on this subject. In its report, the Government states that draft texts have been prepared taking into account the recommendations of the ILO supervisory bodies. A Bill has thus been prepared amending the minimum age for employment or work, which has been adopted by the Council of Ministers and must be submitted to the National Assembly, as well as draft ministerial decrees, which have already been prepared and approved by the National Advisory Council of Labour and Social Security, and which can only be signed after the adoption of the aforementioned Bill. The Committee further notes that, according to the Government's replies to the list of issues concerning the third periodic report to the United Nations Committee on Economic, Social and Cultural Rights of 14 August 2019, the minimum age for admission to employment will be raised to 16 years (as the draft legislation is in the process of being adopted) (E/C.12/SEN/Q/3/Add.1, paragraph 79). While noting that the Bill amending section L.145 of the Labour Code on the minimum age of admission to employment and work was adopted by the Council of Ministers on 2 January 2019, the Committee notes with *regret* that the Government has not provided any copies of the Bill nor of the abovementioned draft ministerial decrees. ***In light of the foregoing, and taking into account***

*that it has been commenting on this matter for over 15 years, the Committee firmly hopes that the Government will, without delay, be able to report on the amendment of its legislation in conformity with the Convention, by only providing for exemptions from the minimum age of admission to employment and work strictly in cases prescribed in the Convention. It requests it to provide copies of the above Bill and decrees once they are adopted.*

*Article 2(1). Scope of application and labour inspection.* In its previous comments, the Committee recalled that the Convention applies to all forms of work and employment, including children working in the informal economy. It requested the Government to take measures to adapt and strengthen the labour inspection services to ensure the monitoring of child labour in the informal economy and to ensure that these children are afforded the protection set out in the Convention. In its report, the Government indicates that the labour inspection services have been strengthened in terms of staff and operational resources, which has resulted in an exponential increase in the monitoring of establishments with a national total of 4,189 in 2018, compared with 2,557 in 2017. The Government emphasizes, however, that these statistics do not cover the monitoring of child labour in the informal economy and that, at a seminar held in July 2019, it requested the various labour inspectorates to intensify their efforts by broadening their scope of intervention in the informal economy. The Committee notes that, according to the 2018 Annual Labour Statistics Report, the low level of inclusion of the decentralized level (Labour and Social Security Inspections), due mainly to the scant consideration given to the informal sector in monitoring activities, is one of the difficulties facing the Coordination Unit for Combating Child Labour. In addition, in its replies to the list of issues concerning the third periodic report to the United Nations Committee on Economic, Social and Cultural Rights of 14 August 2019, the Government indicates that Child labour in the informal sector continues to present a major challenge, as some vulnerable rural and urban households provide various services for sale as a survival strategy (E/C.12/SEN/Q/3/Add.1, paragraph 83). In addition, the Committee on Economic, Social and Cultural Rights expressed its concern about the insufficient human and budgetary resources available to the labour inspectorate, which do not allow it to effectively monitor the situation of persons who are exploited, including children (E/C.12/SEN/CO/3, paragraph 19). The Committee recalls that the expansion of the relevant monitoring mechanisms to the informal economy can be an important manner in which to ensure that the Convention is applied in practice, particularly in countries where expanding the scope of the implementing legislation to address children working in this sector does not seem a practicable solution (see General Survey on the fundamental Conventions, 2012, paragraph 345). ***It once again requests the Government to take measures to adapt and strengthen the labour inspection services to ensure the monitoring of child labour in the informal economy and to ensure that these children are afforded the protection set out in the Convention. It requests that the Government provide information on the measures taken for this purpose.***

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* In its previous comments, the Committee noted that section 1 of Order No. 3748/MFPTEOP/DTSS of 6 June 2003 relating to child labour provides that the minimum age for admission to hazardous types of work is 18 years. However, it noted that, under the terms of Order No. 3750/MFPTEOP/DTSS of 6 June 2003 establishing the nature of the hazardous types of work prohibited for children and young persons (Order No. 3750), boys under the age of 16 years are authorized to carry out the lightest work in underground mines and quarries, such as loading ore, handling and haulage of small wagons within the weight limits set out in section 6 of the Order, and overseeing or handling ventilation equipment (section 7). Order No. 3750 also allows the engagement of children aged 16 years in the following types of work: work using circular saws, provided that authorization in writing has been obtained from the labour inspectorate (section 14); work involving vertical wheels, winches and pulleys (section 15); the operation of steam valves (section 18); work on mobile platforms (section 20); and the performance of perilous feats in public performances in theatres, cinemas, cafes, circuses and cabarets (section 21). The Government expressed a commitment to amend all the provisions that were not in conformity with the Convention in the context of a reform of laws and regulations as part of the implementation of the PCNPETE. The Committee notes with ***deep concern*** the Government's information that the legislative reform it had reported is still ongoing. ***Recalling that it has been referring to this issue since 2006, the Committee urges the Government to take the necessary measures as rapidly as possible to bring its legislation into conformity with the Convention in order to guarantee that children under 16 years cannot be engaged in work in underground mines and quarries. The Committee further urges the Government to ensure that the conditions provided for in Article 3(3) of the Convention are fully guaranteed for young persons between 16 and 18 years of age engaged in the hazardous types of work covered by Order No. 3750 of 6 June 2003, including that they have received adequate specific instructions and training in the particular types of hazardous work. It requests the Committee to provide copies of the regulatory texts concerned once they have been adopted.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

The Committee notes the observations of the International Trade Union Confederation (ITUC), received on 1 September 2019, and the Government's reply to these observations.

*Article 3(a) of the Convention. Sale and trafficking of children for economic exploitation and forced labour. Begging. Legislation.* In its previous comments, the Committee noted with concern that, although section 3 of Act No. 2005-06 of 29 April 2005 to combat trafficking in persons and similar practices and to protect victims prohibits the organization for economic gain of begging by others, or the employment, procuring or deception of any person with a view to causing that person to engage in begging, or the exertion of pressure so that the person engages in begging or continues to beg, section 245 of the Penal Code provides that "the act of seeking alms on days, in places and under conditions established by religious traditions does not constitute the act of begging". The Committee observed that a joint reading of

these two provisions made it appear that the act of organizing begging by *talibé* children cannot be criminalized, as it does not constitute an act of begging under section 245 of the Penal Code. It therefore urged the Government to intensify its efforts to ensure the adoption of the various draft legal texts intended to prohibit and eliminate begging by *talibé* children, to protect them against sale, trafficking and forced or compulsory labour and to ensure their rehabilitation and social integration. The Committee also took due note of the draft Children's Code and draft regulations of *daaras* (Koranic schools), but observed that they had been under preparation and consultation for several years. It therefore requested the Government to intensify its efforts to ensure the adoption of the various draft legal texts intended to prohibit and eliminate begging by *talibé* children.

The Committee notes with *deep concern* the Government's indication that the legislative reform that has been announced is still under way. While reaffirming its commitment to combat any form of forced labour and trafficking in persons, particularly involving children, the Government indicates that the Bill establishing the status of *daaras* was adopted by the Council of Ministers on 6 June 2018 and is waiting to be passed by the National Assembly. Moreover, the Unit to Combat Trafficking in Persons (CNLTP), following its evaluation of Act No. 2005-06 of 10 May 2005 to combat trafficking in persons and protect victims, has prepared a draft reform which has been submitted for adoption and takes into account technical conformity and effective enforcement. ***In light of the above, the Committee expects that the Government will be able to report without delay on the adoption of the various draft texts intended to prohibit and eliminate begging by talibé children and to protect them against sale and trafficking or forced or compulsory labour. The Committee requests the Government to provide information on the progress achieved in this regard.***

*Article 7(1). Penalties and application in practice.* In its previous comments, the Committee noted that the number of *talibé* children compelled to engage in begging, most of whom are boys aged between 4 and 12 years, was estimated at 50,000. It expressed its deep concern at the persistence of the phenomenon of the economic exploitation of *talibé* children and the low number of prosecutions under section 3 of Act No. 2005-06 and urged the Government to take the necessary measures to ensure the enforcement of this provision in practice. Furthermore, it noted with regret the absence of data on the number of prosecutions, convictions and penalties imposed under the terms of Act No. 2005-06 and requested the Government to provide such data.

The Committee notes the indication by the ITUC that in 2019 it is estimated that in Senegal over 100,000 *talibé* children are compelled to engage in begging. In Dakar alone, almost 30,000 children are compelled to engage in begging. A study undertaken in 2017 identified over 14,800 child victims of forced begging in Saint-Louis and revealed that 187 of the 197 *daaras* in the city send children to beg for at least part of the day. A total of 1,547 children, of whom 1,089 were *talibé*, were removed from the streets of Dakar between June 2016 and March 2017 during the first phase of the "removal" programme. However, of the children reported to have been "removed", 1,006 were returned to the supervision of their Koranic masters, who had themselves subjected them to forced begging, and who in turn sent them back to the *daaras*. The number of children engaged in begging in Dakar only decreased during the first month of the programme, as the Koranic masters feared possible sanctions. After a few months, faced with the failure of the investigation and the prosecution of the offending masters, the situation returned to the status quo. Although the second phase of the programme is not repeating certain of the errors of the first phase and guarantees the return of the children to their parents, the programme is not managing to ensure that justice is applied against the Koranic masters who forced the children to beg. The ITUC indicates that, despite the generalized and visible nature of the abuses, investigations and prosecutions are extremely rare. No Koranic master has been subjected to the investigation by the police of his *daara*, had his case referred to the judicial system, been arrested or prosecuted for having forced *talibé* children to engage in begging during the first year of the "removal" programme. The police still frequently fail to investigate cases of forced begging. Another persistent practice is to prosecute Koranic masters for less serious offences envisaged by other laws, instead of prosecuting them for the exploitation of *talibé* children under the terms of Act No. 2005-06 or the Penal Code. According to the ITUC's observations, in 2018 and 2019, three Koranic masters were convicted of forcing children to beg under Act No. 2005-06. The three masters were convicted, respectively, to a suspended sentence of two years of imprisonment, two years of imprisonment and three years of imprisonment. When the authorities have identified a potential case of forced begging, they have often issued administrative sanctions for those presumed responsible, instead of conducting an investigation and taking criminal action.

In its reply to the ITUC's comments, the Government states that, to face the challenge of law enforcement, the ministry in charge of child protection has incorporated advocacy activities for judicial chain actors into its communication activities for the repression of perpetrators of crimes against children.

The Committee notes the Government's indication in its report that an operation entitled "Epervier", in which national actors participated, was organized from 6 to 10 November 2017 by Interpol in several countries in the subregion, including Senegal. According to the Government, several prosecutions and convictions were noted in the annual report of the Unit to Combat Trafficking in Persons (CNLTP) and in the study evaluating the implementation of the Act. Two judicial investigations against four persons, opened in March 2017, and a procedure against another person are currently ongoing. Nevertheless, the Committee notes that, according to the report submitted by the Government to the Human Rights Committee in August 2018, during the period 2009–16, only one case resulted in 2011 in a conviction for incitement to begging, violence and assault, as envisaged and penalized by section 3 of Act No. 2005-06 (CCPR/C/SEN/5, paragraphs 110–113). It also notes that, in its concluding observations of 30 January 2019, the United Nations Committee Against Torture expressed concern that, despite the efforts announced by the Government to remove from the streets *talibé*

children who attend Koranic schools (*daaras*), there are still reports that the exploitation of children by Koranic teachers for forced begging is a phenomenon that, far from declining, actually increased over the reporting period and that these children continue to be subjected to trafficking, forced begging and extreme forms of abuse and neglect by the persons responsible for their care (*marabouts*). The Committee Against Torture also expressed concern at reports of the connivance of the authorities in relation to this phenomenon and their failure to prosecute abusive *marabouts*, except in cases of deaths or extreme abuse of children. It encouraged the State to enhance the application of national laws and conduct impartial and thorough investigations into acts of trafficking, ill-treatment and sexual abuse of children in Koranic schools and other schools, and ensure that those responsible, including state agents who do not investigate such allegations, are prosecuted and, if convicted, punished with appropriate sanctions (CAT/C/SEN/CO/4, paragraphs 31–32). The Committee *deeply deplores* the persistence of the phenomenon of the economic exploitation of *talibé* children and the low number of prosecutions under section 3 of Act No. 2005-06. It recalls once again that, under the terms of *Article 7(1)* of the Convention, the Government shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to the Convention, including the application of sufficiently effective and dissuasive penal sanctions. ***The Committee therefore urges the Government to take the necessary measures without delay to ensure the enforcement in practice of section 3 of Act No. 2005-06 to persons who make use of begging by talibé children under 18 years of age for the purposes of economic exploitation. Noting the weak impact of the measures adopted, the Committee once again requests the Government to intensify its efforts for the effective reinforcement of the capacities of the officials responsible for the enforcement of the legislation and to ensure that those responsible for these acts, as well as complicit state officials who fail to investigate such allegations, are prosecuted and that sufficiently dissuasive penalties are imposed in practice on those convicted. Noting with deep regret the absence of data on this subject, the Committee once again requests the Government to provide statistics on the number of prosecutions initiated, convictions handed down and penalties imposed under Act No. 2005-06.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing children from being engaged in the worst forms of child labour and the provision of assistance to remove them from these forms of child labour. Talibé children.* The Committee previously noted the various programmes for the modernization of *daaras* and the training of teachers, as well as the various framework plans for the elimination of the worst forms of child labour. It requested the Government to take measures to protect *talibé* children against sale and trafficking and forced or compulsory labour; to ensure their rehabilitation and social integration; to provide information on the measures taken for this purpose within the framework of the support project to modernize *daaras* (PAMOD), and to provide statistics on the number of *talibé* children who have been removed from the worst forms of child labour and who have benefited from rehabilitation and social integration measures in the Care, Information and Counselling Centre for Children in Difficulties (the GINDDI Centre).

The Committee notes the ITUC's observation that the implementation of the PAMOD has been extremely slow. The national system for the regulation of *daaras* cannot be established until the Act regulating *daaras* has been adopted. In the meantime, the Inspectorate of *daaras* appears to be without clear directives and instructions concerning its role and does not appear to be preparing plans to combat begging and ill-treatment of children in *daaras*. It is also difficult to know whether the Inspectorate intends to inspect all *daaras*, or only those registered as "modern" *daaras*, thereby creating a risk that unregistered *daaras* may continue to operate without any controls. The Committee notes that, according to the ITUC, the number of *talibé* children who are victims of forced begging and other serious forms of abuse by their Koranic masters in 2017 and 2018 continued to be alarming. The reported forms of abuse include murder, beatings, sexual abuse, the children being chained up and imprisoned, as well as many forms of negligence and dangerous situations, which occurred in at least eight of the 14 administrative regions of Senegal. One report documents the death of 16 *talibé* children who were victims of abuse, negligence and dangerous situations in which they were placed by Koranic teachers and their assistants in the regions of Saint-Louis, Diourbel and Thiès between 2017 and 2018. Moreover, there were 61 cases of the beating or physical ill-treatment of *talibé* children by Koranic masters or their assistants and 14 cases of children who were imprisoned, bound up or chained in *daaras* in 2017 and 2018. Many *daaras* enclose between tens and hundreds of *talibé* children under conditions of dirt and extreme poverty, often in incomplete buildings without walls, floors or windows. The air and ground are full of rubbish, sewage and flies and the children sleep in a single room in their dozens, or outside, often without mosquito nets. Up to now, the programme for the modernization of *daaras* appears to have focused more on the construction of new "modern" *daaras* than on the improvement of the infrastructure and practices in existing *daaras*.

In this connection, the Committee notes the Government's indication that several initiatives have been undertaken with development partners for the construction and equipment of 64 modern *daaras*, of which 32 are not public, and the provision of subsidies to 100 owners of *daaras*. An amount of 3,750 billion CFA francs had been mobilized for the financing of a pilot initiative for the modernization of *daaras*, including training in administrative management and education of 32 directors of non-public *daaras* under the PAMOD in March 2016, as well as the training of 224 Koranic masters, 160 Arab language teachers and 160 French language teachers for non-public *daaras*, starting on 14 July 2016. Furthermore, in response to the ITUC's observations, the Government indicates that the implementation of the PAMOD, which is due in December 2019, led to the construction of 15 modern *daaras* and the recruitment of their directors. Steps are also being taken to enrol *talibé* in the Universal Health Coverage Programme (CMU/*Talibés*). In addition, with a view to ending the exploitation of child begging, the Ministry for the Protection of Children has initiated consultations with all stakeholders to strengthen the partnership framework for the implementation of a national action plan for the eradication of child begging.

However, the Committee notes that, in its concluding observations of 13 November 2019, the United Nations Committee on Economic, Social and Cultural Rights expresses deep concern at the persistence of the current practice in certain Koranic schools directed by *marabouts* of using children for economic purposes, which also prevents them from having access to health, education and good living conditions (E/C.12/SEN/CO/3, paragraph 26). The Committee notes with **deep concern** the situation of *talibé* children who are victims of forced begging and other serious forms of abuse by their Koranic masters. ***In this context, the Committee urges the Government to intensify its efforts and to take the necessary measures without delay to protect talibé children against sale and trafficking and forced or compulsory labour and to ensure their rehabilitation and social integration. Please provide information on the measures adopted, including within the context of the Programme to Improve Quality, Equity and Transparency in Education and Training (PAQUET) and the PAMOD with a view to the modernization to the system of daaras. The Committee expresses the firm hope that the Government will be in a position to provide statistics in its next report on the number of talibé children who have been removed from the worst forms of child labour 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 Government is asked to reply in full to the present comments in 2020.]***

## Sierra Leone

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2011)**

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.* The Committee previously noted that, according to section 129 of the Child Rights Act of 2007 (Child Rights Act), the provisions related to the employment of children apply to employment in the formal and informal economies. However, according to sections 52 and 53 of the Employers and Employed Act of 1960, children under the age of 15 years shall not be employed or work in any public or private industrial undertaking, or in any branch thereof or on any vessel, other than an undertaking or vessel in which only members of the same family are employed.

The Committee notes the absence of information in the Government's report in this regard. ***Noting the discrepancies on the application of the minimum age provisions, the Committee once again requests the Government to take the necessary measures to harmonize the provisions of the Employers and Employed Act with the Child Rights Act, so as to ensure that children working in all branches of economic activity, including family undertakings, also benefit from the protection laid down in the Convention.***

*Article 3(2). Determination of the types of hazardous work.* The Committee previously noted that, according to section 128(3) of the Child Rights Act, hazardous types of work prohibited to children under 18 years of age include: going to sea; mining and quarrying; portage of heavy loads; manufacturing industries where chemicals are produced or used; work in places where machines are used; and work in places such as bars, hotels and places of entertainment where a person may be exposed to immoral behaviour. It also noted that section 126 of the Child Rights Act and section 48 of the Employers and Employed Act prohibit night work of persons under the age of 18 years. The Committee further noted the Government's indication that the Ministry of Labour and Social Security (MLSS) had developed a list of types of hazardous work prohibited to children under 18 years of age after consultations with the social partners, child protection agencies and civil society organizations. This list of hazardous types of work had been validated and was awaiting Cabinet approval as a *Statutory Supplementary Instrument*.

The Committee notes the Government's information in its report that the list of hazardous types of work is still awaiting Cabinet approval. ***The Committee once again expresses the firm hope that the Government will take the necessary measures to ensure that the list of types of hazardous work prohibited to children under the age of 18 years is adopted in the near future. It requests that the Government provide information on any progress made in this regard.***

*Article 3(3). Admission to hazardous types of work from the age of 16 years.* The Committee previously noted that section 54(2) of the Employers and Employed Act permits underground work in mines of male persons who have attained the age of 16 years with a medical certificate attesting fitness for such work. However, there appear to be no provisions which establish the requirement to ascertain that young persons between the ages of 16 and 18 years engaged in hazardous work receive adequate specific instruction or vocational training in the relevant branch of activity as required by *Article 3(3)* of the Convention.

The Committee notes the absence of information on this point. The Committee once again reminds the Government that according to *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, where such exist, authorize employment or work as from the age of 16 years, on condition that the young persons receive adequate specific instruction or vocational training in the relevant branch of activity. ***The Committee therefore once again requests that the Government take the necessary measures to ensure compliance with the conditions set out in Article 3(3) of the Convention.***

*Labour inspectorate.* The Committee previously noted that according to the provisions of section 132 of the Child Rights Act, a district labour officer shall carry out an inquiry he may consider necessary in order to satisfy himself that the provisions of Part VIII of the Act dealing with the employment of children and young persons in the formal economy are being strictly observed. For the purposes of this section, any person may be interrogated by the district labour officer. Furthermore, if a district labour officer is reasonably satisfied that the provisions of this Part are not being complied with, they shall report the matter to the police who shall investigate the matter and take the appropriate steps to prosecute the offender. The Committee also noted that similar provisions are laid down under section 133 of the Child Rights Act with regard to the enforcement of the provisions related to the employment of children in the informal economy by the District Council. The Committee also noted the Government's information that the Child Labour Unit established within the MLSS was also mandated to monitor child labour in workplaces. The Government's report further indicated that the inspections carried out in the formal sector revealed the non-existence of child labour; however, only limited inspections were carried out in the informal economy and therefore no relevant data on child labour in this

sector was available. Moreover, the Government stated in its report that the labour inspectors, investigators and other key enforcement agencies were still operating on old legislation and that they lacked proper training on child labour monitoring.

The Committee notes that, in its comments of 2013 under the Labour Inspection Convention, 1947 (No. 81), the Committee had noted that the labour inspectorate in Sierra Leone was practically inoperative. **The Committee therefore once again requests that the Government take the necessary measures to strengthen the functioning of the labour inspectorate to ensure the effective monitoring of children working in the formal and informal economy. The Committee also once again requests the Government to provide information on the functioning of the Child Labour Units with regard to the child labour inspections carried out and on the number and nature of violations detected.**

*Application of the Convention in practice.* The Committee previously noted that the data released by the ILO on 12 June 2008 indicated that more than half of all the children between the ages of 7 and 14 years were child labourers. While noting the measures taken by the Government, the Committee expressed its concern at the high number of children below the legal minimum age who were engaged in child labour in Sierra Leone. The Committee also noted from the project report of the ILO-IPEC project entitled “Tackle Child Labour through Education” (TACKLE project) that the TACKLE project and the Statistical Information and Monitoring Programme on Child Labour (SIMPOC) conducted a National Child Labour Survey in 2010–11 in Sierra Leone, the report of which had not yet been published.

The Committee notes that the Government provided results of the National Child Labour Survey 2011 in its written replies to the list of issues in relation to the combined third to fifth periodic reports to the Committee on the Rights of the Child (CRC) of September 2016 (CRC/C/SLE/Q/3-5/Add.1, Annex II), according to which, 45.9 per cent of children aged 5–17 year of age were involved in child labour. Particularly, 31 per cent of children between 5 and 14 years of age were engaged in child labour, while 22 per cent of children between 5 and 17 years of age were involved in hazardous work. The Committee further notes that, according to the State of the World’s Children 2014 (UNICEF), more than a quarter (26 per cent) of children aged 5–17 years were involved in hazardous work. The Committee expresses its *deep concern* at the large number of children involved in child labour and hazardous work. **It urges the Government to pursue its efforts to prevent and eliminate child labour within the country. It also requests the Government to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of 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.**

## Somalia

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2014)**

The Committee notes with *deep concern* that the Government’s first report, due since 2016, has not been received. In light of its urgent appeal launched to the Government in 2018 and the seriousness of the problem, the Committee will proceed with the examination of the application of the Convention on the basis of the information at its disposal. **The Committee firmly hopes that the Government will respond to its comments below.**

*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 takes note of the observations of the Federation of Somali Trade Unions (FESTU), received on 1 September 2018, which state that children are forcibly recruited and used by militias and Al-Shabaab extremists as soldiers. The Committee observes that, pursuant to article 29 of the Provisional Constitution of 2012, every child has the right to be protected from armed conflict, and not to be used in armed conflict.

The Committee further notes that, according to the report of the UN Secretary-General on Children and armed conflict of June 2019, 2,300 children (2,228 boys and 72 girls), some as young as 8, were recruited and used by parties to the conflict in Somalia in 2018, namely Al-Shabaab which recruited 1,865 children, but also the Somali National Army, Somali Police and other forces, making it the country with the highest number of cases of the recruitment and use of children in armed conflict. The Secretary-General also highlighted that 1,609 cases of children abducted by parties to the conflict were verified in 2018, mainly for the purpose of recruitment and use in armed conflict, as well as 331 cases of sexual violence against children (328 girls and three boys) (S/2019/509, paragraphs 7, 9, 10, 139, 141 and 144). The Committee *deplores* the recruitment and use of children by armed forces and armed groups in Somalia, especially since this worst form of child labour entails other grave violations of the rights of the child, such as abductions and sexual violence. **The Committee accordingly urges the Government to take the necessary measures to end the forced recruitment of children under 18 years of age by the armed forces and armed groups and to provide information in this regard. It requests the Government to take immediate measures to ensure that the persons found guilty of recruiting and using children under 18 years of age in armed conflict are investigated and prosecuted and that sufficiently effective and dissuasive penalties are imposed. Lastly, the Committee requests the Government to indicate the provisions in national legislation which prohibit the forced recruitment of children for use in armed conflict and which establish penalties for violations thereof.**

*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, according to its report to the United Nations Committee on the Rights of the Child (CRC) of October 2019, the Government indicated that by December 2018, over 3 million children out of 4.9 million in the country were estimated to be out of school. The primary net attendance rate is 25 per cent for boys and 21 per cent for girls. For secondary education, the gross enrolment rate is 15.8 per cent and the net enrolment rate is 8.6 per cent. The Government stated that rural, pastoralist and internally displaced children particularly face barriers to education. Girls are also less likely than boys to access education (CRC/C/SOM/1, paragraphs 18, 256, 260, 264, 267 and 268).

The Committee further notes the Government's indication in its report to the CRC that school facilities are attacked by Al-Shabaab to forcibly recruit children (CRC/C/SOM/1, paragraph 270). It notes that the UN Secretary-General observed, in his report on children and armed conflict of June 2019, that 77 attacks on schools were verified in 2018 (S/2019/509, paragraph 143). **Considering that education is key to preventing children from the worst forms of child labour, the Committee requests the Government to take the necessary measures to improve access to free basic education of all children, including girls, children in rural areas, pastoralist children and internally displaced children. It requests the Government to provide information in this respect, including on enrolment and attendance rates at primary and secondary level.**

*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, in its report to the CRC of October 2019, that the National Programme for the Treatment and Handling of Disengaged Fighters focuses on outreach, reception, screening, rehabilitation and reintegration of children previously engaged in conflict. The Government has set up rehabilitation transition centres for disengaged Al-Shabaab fighters (CRC/C/SOM/1, paragraph 363). The Committee further notes that the UN Secretary-General indicated in his report on children and armed conflict of June 2019 that 1,179 children formerly associated with armed forces and groups received reintegration support in 2018. However, it also indicated that 375 children were detained in Somalia for their alleged association with the armed group Al-Shabaab (S/2019/509, paragraphs 13 and 148). In this regard, the Committee wishes to 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 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, and to provide information in this respect. It also requests the Government to provide information on the measures taken to identify and remove children from armed forces and groups, as well as to provide them with appropriate assistance for their rehabilitation and social integration, including within the framework of the National Programme for the Treatment and Handling of Disengaged Fighters and through rehabilitation transition centres.**

*Clause (d). Identifying and reaching out to children at special risk. Street children.* The Committee notes that, according to the observations of the FESTU, received on 28 August 2015, children in Somalia are engaged in the worst forms of child labour in street work. The Committee also notes that the Government indicates, in its report to the CRC of October 2019, that during the last two decades, the number of children living and working in the streets of major towns has increased (CRC/C/SOM/1, paragraph 305). **The Committee requests the Government to take the necessary measures to ensure that children living and working on the streets are protected from the worst forms of child labour, and to provide information in this respect.**

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

## Spain

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

The Committee notes the observations of the General Union of Workers (UGT) in the Government's report and also the Government's reply. The Committee also notes the observations of the Spanish Confederation of Employers' Organizations (CEOE), received on 6 September 2019, and the Government's reply to these observations.

*Article 7(2) of the Convention. 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 labour and ensuring their rehabilitation and social integration. Trafficking for sexual and labour exploitation.* The Committee previously encouraged the Government to pursue its efforts to protect young persons under 18 years of age, particularly girls and migrant children, against trafficking for sexual exploitation. It also asked the Government to supply information on the number of migrant children registered in the context of the "Protocol on unaccompanied foreign minors".

The Committee notes the observations of the UGT indicating that the "Comprehensive plan to combat the trafficking of women and girls for sexual exploitation" does not take account of the situation of male victims or of other forms of exploitation, such as labour exploitation. The UGT emphasizes that the immediate consequences are insufficient protection of boys who are victims of trafficking for sexual exploitation, and inadequate protection for women and girls who are victims of other forms of human trafficking. In this regard, the Committee notes the Government's indication that the appendix to the "Framework Protocol for the protection of human trafficking victims" concerning action to detect and provide care for child victims of trafficking applies to both girls and boys.

The Committee notes the Government's indication that the information on unaccompanied foreign minors (MENA) and the information on child victims of trafficking and sexual exploitation originate from two different registers. Accordingly, the information from the MENA register covers all unaccompanied migrant children identified in Spain. In April 2019, a total of 12,303 migrant children (11,367 boys and 936 girls) were registered. The data concerning trafficking victims originate from the Ministry of the Interior. In 2016, the 148 registered victims included six children; in 2017, nine children were recorded among 155 victims; in 2018, the 128 trafficking victims included six children. As regards sexual

exploitation, in 2016 three children were registered among 433 cases; in 2017, six children in 422 cases; and in 2018, two children were recorded among 391 cases.

The Committee also notes the statistics provided by the Government relating to working children who are victims of trafficking for labour exploitation, for begging and for criminal activities. In 2016, no cases of trafficking of children for labour exploitation were recorded. In 2017 and 2018, four cases each of trafficking of children for labour exploitation were recorded. Between 2016 and 2018, the Government recorded ten cases of children involved in criminal activities and four cases of children used for begging.

The Committee duly notes the inclusion of specific provisions for persons working with minors – in order to check that there is no previous history of sexual offences against children or trafficking offences for sexual exploitation – in the draft Act for the comprehensive protection of children and young persons from violence. This draft legislation is being drawn up by the Ministry of Health, Consumer Affairs and Social Welfare, the Ministry of Justice and the Ministry of the Interior. The Committee notes that the CEOE emphasizes in its observations that the participation of trade unions and occupational associations in this process is important to ensure progress and substantive changes to the draft legislation, in view of their knowledge of the social and economic realities in Spain.

Furthermore, the Committee notes the amendments to sections 177bis(6) and 192(3) of the Penal Code, which impedes any person guilty of sexual offences against children or trafficking of persons for sexual exploitation from exercising an occupation or conducting a business, whether remunerated or not, which involves regular, direct contact with children and young persons.

The Committee also notes that the appendix to the “Framework Protocol for the protection of human trafficking victims” concerning action for detecting and providing care for child victims of trafficking has been in force since December 2017. The Committee notes the CEOE’s indication that the network of Spanish enterprises is mainly composed of small and medium-sized enterprises (SMEs) and micro SMEs and that it is asking the Government to take the social partners into consideration in the context of the training initiatives of this Framework Protocol. The Committee notes the Government’s indication that, in the context of the labour inspectorate’s plans of action, the participation of occupational associations and trade unions has been ensured through a general council, in accordance with section 11 of the regulations governing the work of the National Labour and Social Security Inspectorate (Royal Decree No. 192/2018). ***The Committee requests the Government to continue its efforts to protect children under 18 years of age against the trafficking of persons, while involving the social partners in the measures and action taken. The Committee also requests the Government to provide detailed information on the procedure followed and the results achieved in the context of the “Protocol on unaccompanied foreign minors” and of the appendix to the “Framework Protocol for the protection of human trafficking victims”.***

*Clause (d). Children at special risk. Migrant children and unaccompanied minors.* The Committee previously reminded the Government that migrant children are particularly exposed to the worst forms of child labour and requested the Government to intensify its efforts to protect these children from the worst forms of child labour, particularly by ensuring their integration into the education system. It also requested the Government to provide information on the measures taken and the results achieved in this respect.

The Committee notes the UGT’s indications that the Council of Ministers has established a working group on migrant children in conjunction with the Public Prosecutor’s Office, the autonomous communities and NGOs in order to analyse proposals concerning the template for the care of unaccompanied foreign minors. However, the UGT highlights the fact that the most representative trade unions of the country have not been invited to join this working group, even though they represent people working at the young person reception centres. The UGT also expresses concern at the care template, which involves public contracts or subsidies in which the economic criteria takes precedence over quality of service. The Committee notes the Government’s indications in this regard that an Inter-territorial Coordination Council has been set up to deal with the situation of unaccompanied foreign minors by facilitating the interaction and coordination of all institutions and administrations connected with providing care for them. The first meeting took place in September 2018.

The Committee also notes the information on the “Programme of guidance and reinforcement for progress and support in education”. The total amount of credits allocated to this programme in 2018 was over 81 million euros, divided among the autonomous communities. The goal of the programme is to establish support mechanisms to ensure high-quality education through equitable education policies aimed at reducing the drop-out rates from school and vocational training. Guidance and psycho-pedagogical teams located in the region or the school district have information on the socio-economic and family profiles of at-risk groups of pupils. Support is given by these teams in schools with the involvement of the families. ***The Committee requests the Government to continue its efforts to protect migrant children and unaccompanied foreign minors from the worst forms of child labour, ensuring their integration into the school system. The Committee also requests the Government to provide information on the results achieved in the context of the “Programme of guidance and reinforcement for progress and support in education” and on the measures taken within the Inter-territorial Coordination Council to facilitate the provision of care for unaccompanied foreign minors.***

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

## Sri Lanka

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

*Article 2(2) of the Convention. Raising the minimum age for admission to employment or work.* The Committee previously noted the Government's information that the Ministry of Labour and Trade Union Relations (MoLTUR) was currently in the process of amending relevant labour laws such as the Employment of Women, Young Persons and Children Act No. 47 of 1956, in order to raise the minimum age for admission to work or employment from 14 to 16 years. It trusted that the amendments raising the minimum age for employment to 16 years would be adopted in the near future.

The Committee notes with *interest* the Government's indication in its report that it has obtained the approval of the Cabinet of Ministers to increase the minimum age for employment from 14 to 16 years. The Government indicates that the revised draft labour laws and regulations, namely the Employment of Women, Young Persons and Children Act No. 47 of 1956, the Shop and Office Employees Act No. 19 of 1954, the Factory Ordinance No. 45 of 1942, and the Employees' Provident Fund Act No. 15 of 1958, which contain provisions raising the minimum age from 14 to 16 years, would enter into force in 2020. ***The Committee welcomes the measures taken by the Government to raise the minimum age for admission to employment or work from 14 to 16 years, and hopes in this regard that the above-mentioned draft labour laws and regulations will be adopted in the near future. The Committee reminds the Government of the provisions of Article 2(2) of the Convention, which provide that any Member having ratified this Convention may subsequently notify the Director-General of the International Labour Office, by a new declaration, that it has raised the minimum age that it had previously specified. The Committee would be grateful if the Government would consider sending a declaration of this nature to the Office, once the minimum age fixed by the national legislation is raised to 16 years.***

*Article 2(3). Compulsory education.* The Committee previously noted with interest the adoption of the Compulsory Attendance of Children at School Regulation No. 1 of 2015, which provides for compulsory education from 5 to 16 years of age. It noted however that the minimum age for admission to work or employment was therefore lower than the school-leaving age, and accordingly urged the Government to continue its efforts to raise the general minimum age. ***Noting that the Government is in the process of raising the minimum age for admission to employment or work to 16 years, the Committee once again requests the Government to continue its efforts in this respect, in order to link the minimum age with the age of completion of compulsory schooling, in conformity with the Convention.***

*Application of the Convention in practice and the labour inspectorate.* The Committee previously encouraged the Government to pursue its efforts to ensure the progressive abolition of child labour and to take effective measures to strengthen the capacity and expand the reach of the labour inspectorate to better monitor children working in the informal sector, including domestic workers.

The Committee notes the Government's information that a special inspection group is in charge of inspecting workplaces specifically for child labour, both in the formal and informal sector. In 2018, it inspected 472 workplaces. Moreover, there is a mechanism to inspect workplaces, including households, where underage children are suspected to be employed, in which interdepartmental teams comprising members of the police and of the Department of Probations and Child Care conduct the inspection together. Accordingly, 129 interdepartmental investigations were conducted following complaints on child labour in 2018, resulting in two instances of child labour. From 1 January to 31 August 2019, 112 investigations have been initiated following complaints on child labour, and no incidents of child labour have been identified.

The Committee further notes the Government's information that it has increased awareness-raising measures on child labour for multiple stakeholders, including the members of the Child Development Committees instituted by the Ministry of Women and Child Affairs in the 25 districts, field officers of the Department of Manpower and Employment, who come into direct contact with school students, teachers and parents, of the five districts in which child labour is estimated to be most prevalent, and the general public. The Government also states that the National Policy on Elimination of Child Labour was adopted in 2017, and that a national action plan is being prepared in this regard. The Committee notes in this regard that the National Steering Committee within the Ministry of Labour is in charge of the coordination and the monitoring of the implementation of the Policy.

The Committee notes that, according to the 2015–16 Child Activity Survey, the total child population aged between 5 and 17 years involved in child labour was 43,714 children (1 per cent). It also notes that the National Policy on Elimination of Child Labour of 2017 indicates that child labour is particularly prevalent in fisheries, tourism, small private estates and domestic labour. The Committee further observes that both the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights of the United Nations expressed concern that, despite significant progress made, children remain employed as street vendors, in domestic service, in agriculture, mining, construction, manufacturing, transport and fishing (CRC/C/LKA/CO/5-6, paragraph 41 and E/C.12/LKA/CO/5, paragraph 43). ***Welcoming the measures taken by the Government, the Committee requests it to continue its efforts to ensure the progressive elimination of child labour in the country, with a focus on the informal economy. It requests the Government to provide information on the measures taken and the results achieved in this regard, including within the framework of the National Policy on Elimination of Child Labour of 2017. It also requests the Government to continue to provide information on the measures taken to strengthen the capacity and expand the reach of the labour inspectorate regarding children working in the informal sector and on the number of children engaged in child labour identified.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 3 of the Convention. Worst forms of child labour. Clause (a) and Article 7(2)(a) and (b). Sale and trafficking of children and effective time-bound measures for prevention, assistance and removal from the worst forms of child labour.* The Committee previously noted that there are four safe houses, four certified schools and two national training and counselling centres in the country, which provide medical, legal and psychological services to child victims of trafficking. The Government also stated that 11 “places of safety” for child victims of trafficking were maintained at the provincial level, and that the Ministry of Justice established a National Anti-Human Trafficking Task Force. Moreover, it indicated that in 2016–17, prosecutors have been able to secure six convictions for trafficking of children. The Committee requested the Government to indicate the number of child victims of trafficking who have benefited from the services provided by the safe houses, certified schools and national training and counselling centres. It also requested the Government to continue providing information on the number of persons prosecuted, convicted and sentenced with regard to cases involving trafficking of children.

The Government indicates in its report that it has taken various measures to prevent trafficking in persons, including the development of training and awareness-raising programmes and campaigns for government officials and the general public. The Government further indicates the adoption of the National Strategy Plan to Monitor and Combat Human Trafficking 2015–19. The implementation of this Strategy Plan is a key responsibility of the National Anti-Human Trafficking Task Force led by the Ministry of Justice. The Government further states that the task force is in charge of monitoring and strengthening the coordination among state actors, increasing victim identification and prosecutions, and improving the protection accorded to victims. The Government also indicates that during the reporting period, two suspected cases of trafficking in children for labour or commercial sexual exploitation were reported to the Sri Lanka Police. The Committee notes that, according to the statistics of the National Child Protection Authority, in 2018, 125 cases of trafficking were reported to it. It notes the Government’s indication, in its report to the United Nations Committee on the Rights of the Child (CRC) under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) of April 2019, that there is a special unit in the Sri Lanka Police to investigate complaints relating to trafficking of children (CRC/C/OPSC/LKA/Q/1/Add.1, paragraph 4). ***While taking due note of the measures taken by the Government to prevent trafficking in children, the Committee requests it to take the necessary measures to ensure that perpetrators of trafficking of children are effectively prosecuted and that sufficiently effective and dissuasive penalties are imposed on them in practice, and to supply information in this respect. It also requests the Government to provide information on the number of child victims of trafficking identified by the special unit in the Police established for this purpose. Noting the absence of information from the Government on this point, the Committee once again requests it to indicate the number of these children who have benefited from the services provided by the safe houses, certified schools and national training and counselling centres.***

*Clause (b). Use, procuring or offering of a child for prostitution, the production of pornography or pornographic performances.* In its previous comments, the Committee noted that sections 286A, 288A, 360A and 360B of the Penal Code, as amended, prohibited the use, procuring or offering of children for prostitution, and for pornographic performances. It noted the high incidence of children in prostitution. The Committee therefore urged the Government to strengthen its efforts to ensure that perpetrators were brought to justice, thorough investigations and prosecutions of perpetrators were carried out, and sufficiently effective and dissuasive penalties were imposed in practice.

The Committee notes the Government’s indication that although there is a prevalence of child prostitution in certain areas of the country, there is an absence of accurate statistics in this regard. It indicates, in its Policy on Elimination of Child Labour in Sri Lanka (2017), that the sexual exploitation of children among young boys (the “beach boy” phenomenon) in tourism is of high concern because of the rapid increase in tourism and the willingness to expand it further. The Government also states, in its report to the CRC under the OPSC of October 2018, that issues pertaining to child prostitution and child pornography are critical, with increasing access to information and communication technologies which have brought with them the concern that children will be exposed to harm through these platforms (CRC/C/OPSC/LKA/1, paragraph 2). In this report, it further indicates that a national database on complaints received by the police desks, containing a special segment on complaints relating to sexual exploitation and pornography, has been established (paragraph 59).

The Committee further notes that, in its report to the CRC under the OPSC of April 2019, the Government indicates that the Sri Lanka Police identified in 2018 nine cases of child pornography and seven cases of procurement of children (CRC/C/OPSC/LKA/Q/1/Add.1, paragraph 2). It observes that, in its concluding observations under the OPSC of July 2019, the CRC expressed concern at the low prosecution rates and a high number of pending cases, and reports of official complicity in relation to cases of child prostitution and child pornography (CRC/C/OPSC/LKA/CO/1, paragraph 29). ***The Committee therefore urges the Government to take the necessary measures to combat child prostitution and child pornography, by ensuring that sections 286A, 288A, 360A and 360B of the Penal Code are effectively applied through thorough investigations and prosecutions of persons suspected of using, procuring or offering children for prostitution, the production of pornography or pornographic performances, including State officials suspected of complicity. The Committee requests the Government to provide information on the application of these sections in practice, indicating in particular the information from the database on complaints relating to prostitution and pornography, the number of investigations, prosecutions and convictions, as well as the specific penalties applied.***

*Clause (d) and Article 4(3). Hazardous work and revision of the list of hazardous types of work.* The Committee previously noted that, according to the 2015–16 Child Activity Survey, 0.9 per cent of children aged 5–17 years (39,007 children) are engaged in hazardous work. The Government stated however that no incidents of hazardous work by children had been detected in the formal economy. The Committee further noted the Government’s information that a committee had been appointed by the Commissioner General of Labour to revise the list of hazardous work according to international standards. It requested the Government to pursue its efforts to ensure the protection of children from hazardous types of work, including in the informal economy, and to provide information on the adoption of the new list of hazardous types of work.

The Committee notes the Government’s information that, in 2018, 472 workplaces were inspected specifically for hazardous work performed by children and for child labour, through a special group inspection programme, following which one instance of hazardous work by children was identified. The Government indicates that awareness-raising activities were conducted, targeting inter alia all the district child development committees, and the field staff of the Department of Manpower and Employment in the five most child labour prevalent districts, to eliminate hazardous work by children. The Committee takes due note of the Government’s indication that the new draft regulation for hazardous occupations, consisting of 77 types of hazardous work, has been finalized in 2018 and approved by the Cabinet of Ministers. The Government also indicates that it will supply a copy of the regulation, once adopted.

The Committee takes note of the National Action Plan for the Protection and Promotion of Human Rights 2017–21, which includes activities to eliminate effectively the hazardous forms of child labour. ***The Committee encourages the Government to pursue its efforts to ensure that children under 18 years of age are not engaged in work that is harmful to their health, safety or morals, and to continue to provide information on the measures taken in this regard. It requests the Government to ensure that the new draft regulation for hazardous occupations will be adopted in the near future, and to provide a copy of the list once it has been adopted.***

*Articles 6 and 7(2)(a) and (b). Programmes of action and effective time-bound measures for prevention, assistance and removal of children from the worst forms of child labour. Commercial sexual exploitation of children.* The Committee previously noted the Government’s statement that awareness-raising programmes were delivered to the public and tourists to promote child-safe tourism and that 360 hotel staff members had received child protection awareness training in this regard. The Committee accordingly encouraged the Government to strengthen its efforts to combat child-sex tourism.

The Committee notes the Government’s indication that, in 2016, the National Child Protection Authority has initiated targeted programmes related to the zero-tolerance policy of the Government regarding child-sex tourism for foreigners in Bentota and Kalutara, two coastal cities of the country. The Government also states that programmes to combat child labour and child-sex tourism have been conducted for 1,893 beneficiaries in the plantation sector and for education and health staff.

The Committee observes that one of the objectives of the National Plan of Action for Children in Sri Lanka 2016–20 is to protect children from all forms of sexual exploitation in relation to trafficking, sale and commercial sex networks, and to respond to the needs of such children for rehabilitation. It also takes note of the Policy Framework and National Plan of Action to address Sexual and Gender-based Violence in Sri Lanka 2016–20, which focuses, inter alia, on preventing the commercial sexual exploitation of children, by raising awareness against this phenomenon, strengthening the existing mechanism of detection and responding to complaints. The Committee notes the Government’s information, in its report to the CRC under the OPSC of October 2018, that with regard to the online safety of children including from pornography, it is developing programmes to raise awareness among children (CRC/C/OPSC/LKA/1, paragraph 58). However, the Committee notes that, in its concluding observations under the OPSC of July 2019, the CRC expressed concern about reported cases of parents encouraging children, particularly girls, to enter the sex industry (CRC/C/OPSC/LKA/CO/1, paragraph 19). ***Taking due note of the measures taken by the Government, the Committee requests it to pursue its efforts to eliminate the commercial sexual exploitation of children, as well as to prevent the engagement of children in commercial sexual exploitation and to provide direct assistance for the removal, rehabilitation and social integration of child victims of commercial sexual exploitation. It also requests the Government to provide information on the number of children who have been removed from commercial sexual exploitation and who have been rehabilitated and socially integrated.***

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

## Sudan

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2003)***

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. Determination of hazardous work.* In its previous comments, the Committee noted that within the framework of the ILO–IPEC project “Tackling child labour through education” (TACKLE Project), the Child Labour Unit was taking the lead on the development of the list of types of hazardous work. In January 2012, the National Steering Committee had endorsed a list of hazardous activities and the list was awaiting ministerial decree.

The Committee notes the Government’s indication in its report that a copy of the list of hazardous activities will be sent to the Committee as soon as it is adopted. The Committee recalls that, pursuant to *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. *Noting that the Government has been referring to the adoption of the list of hazardous activities since 2006, the Committee urges the Government to take the necessary steps without delay to ensure the adoption, in the very near future, of legal provisions determining the types of hazardous work to be prohibited for persons under 18 years of age. It also requests that the Government provide a copy of the list, once adopted.*

The Committee is raising other matters in a request directly addressed 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: 2003)**

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

*Articles 3 and 7(1) of the Convention. Worst forms of child labour and penalties. Clause (a). Slavery and practices similar to slavery. 1. Abductions and the exaction of forced labour.* In its early comments, the Committee noted the various legal provisions in Sudan which prohibit the forced labour of children (and abductions for that purpose), including article 30(1) of the Constitution of 2005, section 32 of the Child Act of 2004, and section 312 of the Penal Code. However, the Committee noted the allegations of the International Trade Union Confederation (ITUC) regarding cases of abduction of women and children by the Janjaweed militia. The Committee also noted that with reference to several reports of United Nations bodies, such as the report of the Secretary-General on Children and Armed Conflict, cases of abduction of children with a view to their labour exploitation had been reported in Abyei, Blue Nile and South Kordofan.

The Committee notes the Government's indication in its report that special courts were set up to eliminate the practice of abduction. Moreover, psychological and social support, education, work opportunities, and skills training were also provided to children who had been abducted. In addition, training was provided to 78 specialists from the Ministries of Social Affairs and of Education, and other partners working on social psychological rehabilitation with the participation of society in the process of reintegration and rehabilitation.

With regard to the penalties imposed on the offenders who abduct children for the exaction of forced labour, the Committee further notes the Government's indication in its report submitted under the Forced Labour Convention, 1930 (No. 29), that among the prosecutions undertaken by the Special Prosecutor for Darfur, none of the prosecutions were related to cases of abductions for forced labour. The Committee also notes that according to the 2016 report on children and armed conflict of the UN Secretary-General, although impunity for grave violations against children continued to be a concern, there was progress, with arrests being made for sexual violence and the killing and maiming of children. The Secretary-General called upon the Government to ensure accountability for all grave violations (A/70/836-S/2016/360, paragraph 147). *The Committee urges the Government to continue to strengthen its efforts to eradicate abductions and the exaction of forced labour from children under 18 years of age, and to provide information on the effective and time-bound measures taken to this end. The Committee also urges the Government to take immediate measures to ensure that thorough investigations and robust prosecutions of offenders are carried out and that sufficiently effective and dissuasive sanctions are imposed in practice. Lastly, the Committee requests the Government to indicate whether the Committee for the Eradication of Abduction of Women and Children (CEAWC) – referred to in its previous reports – is still operational, and to provide information on its current activities.*

*2. Forced recruitment of children for use in armed conflict.* In its previous comments, the Committee noted with concern that children were being recruited and forced to join illegal armed groups or the national armed forces in practice.

The Committee notes the Government's indication that the legislation, including the Child Labour Law, the Police Law, and the Civil Service Law specify that no child under 18 years of age shall be recruited in the army, and that penalties are imposed in cases of recruitment. The Government also indicates that a national campaign for the support of child rights was organized, and carried out by the National Council for Childhood. Several workshops and symposia were held at the national level in addition to the preparation and distribution of awareness-raising and guiding posters in support of the issues of child protection, while paying special attention to the issue of child recruitment in the armed forces. Moreover, the National Council for Childhood, in collaboration with the Child Rights Unit at the Ministry of Defence, carried out a few training courses for officers and other members of the armed forces on children's rights and protection in armed conflict, as well as training courses on children's rights and protection across borders.

However, the Committee notes that in its 2014 concluding observations, the UN Human Rights Committee (HRC) was concerned by reports indicating that children are still being recruited and used in armed conflict, and that efforts at monitoring this practice are insufficient. The HRC also recommended that the country redouble its efforts to detect and eradicate the recruitment and use of child soldiers as well as to ensure their prompt disarmament, demobilization and reintegration. The HRC finally recommended that alleged perpetrators be brought to justice and, if convicted, adequately sanctioned (CCPR/CSDN/CO/4, paragraph 24). Furthermore, the Committee observes that according to the 2016 report on children and armed conflict of the UN Secretary-General (A/70/836-S/2016/360, paragraphs 133, 134, 139 and 146) during the reporting period (January to December 2015), four cases of recruitment and use of children by the Sudanese Armed Forces were documented. Two boys were also recruited by the Liberation Movement-North Sudan (SPLM-N) from refugee settlements in South Sudan, and 28 incidents of killing and maiming were documented, affecting 43 and 38 children, respectively. The abduction of eight children, including five in Abyei was also documented. The children were released and reunited with their families following engagement by the UN. Moreover, the country task force on monitoring and reporting verified the recruitment of four boys by the Sudanese Armed Forces in West Darfur, including one who reportedly participated in fighting along with the Abbas faction of the Justice and Equality Movement (JEM). The UN Secretary-General also stated that, during her visit in March 2016, the Special Representative for Children and Armed Conflict was given access to 21 children detained by the National Intelligence and Security Service since April and August 2015. The children had allegedly been recruited in Southern Kordofan and South Sudan and used in combat in Darfur and South Sudan. The Special Representative advocated further access by the UN to the children and their release and reunification with their families. Lastly, the Special Representative highlighted that the Sudan signed in March 2016 an Action Plan to end and prevent the recruitment and use of children by its security forces. While noting certain measures taken by the Government to raise awareness on the issue of children in armed conflict, the Committee expresses its *deep concern* with regard to the persistence of this practice, especially as it leads to other violations of the rights of children, in the form of abductions, murders and maiming. *In this regard, the Committee urges the Government to take immediate and effective measures, in collaboration with the UN bodies operating in the country, to put a stop in practice to the compulsory recruitment of children for use in armed conflict by armed groups and the armed forces. The Committee requests the Government to take the necessary measures to ensure that the Action Plan*

*to end and prevent the recruitment and use of children in the armed forces, signed in 2016 with the UN is promptly and effectively implemented.*

*Article 7(2). Effective and time-bound measures. Clause (b). Removing children from the worst forms of child labour and providing for their rehabilitation and social integration. Child soldiers.* In its previous comments, the Committee noted that the Child Soldier Unit was established in order to improve the situation of children associated with armed forces. Its efforts had resulted in the demobilization and reintegration of a considerable number of children in Sudan. The Unit had established a database of child soldiers, with information relating to their registration, reintegration, and follow-up. The Committee also noted that the Government had been facing certain difficulties regarding the funding of the Child Soldier Unit.

The Committee notes the Government's indication that the Disarmament and Demobilization Commission has adopted the concept of full reintegration of children who were recruited by armed groups and movements, based on societal work. The Commission carried out its work in all regions of the country where there are "vagrant children" in the Blue Nile, Al Qadarif, Kassala, Port Sudan and Al-Junaynah. It consists of providing moral and psychological support as well as raising awareness on the impact of recruitment among children's groups, in addition to providing services to children in conflict areas and emergency situations. In this regard, in 2015, the Minimum Standards on Protection of Children in Emergency and Crisis Situations were launched. *The Committee urges the Government to continue to take effective and time-bound measures to remove children from armed conflict and ensure their rehabilitation and social integration. It also requests the Government to indicate whether the Child Soldier Unit is still functional, and to provide information on its recent activities. Lastly, the Committee requests the Government to supply information on the number of child soldiers removed from armed forces and groups and reintegrated through the actions undertaken by the Disarmament and Demobilization Commission.*

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

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

## Syrian Arab Republic

### Minimum Age Convention, 1973 (No. 138) (ratification: 2001)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

*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, para. 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 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: 2003)

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

*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 Nusra 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 Tallkalah (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 hopes that the Government will make every effort to take the necessary action in the near future.**

## Tajikistan

### Minimum Age Convention, 1973 (No. 138) (ratification: 1993)

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.* 1. *Minimum age for admission to employment or work.* The Committee previously noted that, at the time of ratification, Tajikistan specified a minimum age of 16 years for admission to employment or work. The Committee, however, noted that while section 180 of the Labour Code of 1973 establishes a minimum age of 16 years, section 174 of the Labour Code of 15 May 1997 only prohibits the employment of persons under the age of 15 years. Recalling that by virtue of *Article 2(1)* of the Convention, no one under the minimum age for admission to employment or work, specified upon ratification of the Convention (16 years), shall be admitted to employment or work in any occupation except for light work as authorized under *Article 7* of the Convention, the Committee urged the Government to take the necessary measures to bring the national legislation into conformity with the Convention.

The Committee notes that a new Labour Code was adopted in July 2016. It notes with *regret* that, despite its reiterated comments for many years, Chapter 13, section 174 of the new Labour Code prohibits the employment of children under 15 years, which is lower than the minimum age of 16 years specified by the Government at the time of ratification. The Committee emphasizes that the objective of the Convention is to eliminate child labour and that it allows and encourages the raising of the minimum age but does not permit the lowering of the minimum age once specified. **The Committee therefore strongly urges the Government to take the necessary measures to ensure that section 174 of the Labour Code of 2016 is amended in order to align this age to the one specified at the time of ratification, namely a minimum age of 16 years, and bring it into conformity with the provisions of the Convention. It requests that the Government provide information on any progress made in this regard.**

2. *Scope of application.* In its previous comments, the Committee noted that the Labour Code does not seem to apply to work done outside employment contracts. It requested that the Government provide information on the measures taken or envisaged to ensure that children working outside of a formal labour relationship, such as children working in the informal sector or on a self-employed basis, benefit from the protection provided by the Convention.

The Committee notes the Government's information in its report that the State Supervisory Service for Labour, Migration and Employment under the Ministry of Labour supervises and monitors compliance with labour legislation. The activities of the State Supervisory Service include monitoring of child labour in the formal and informal economy as well as children working on a

self-employed basis. However, no information has been provided on the number of inspections carried out and the number of violations related to child labour detected by the State Supervisory Services in the informal economy. In this regard, the Committee notes from a report entitled *ILO-IPEC contributions to eliminate the worst forms of child labour in Tajikistan, 2005–15* (ILO-IPEC Report, 2015) that children in Tajikistan work in almost all sectors of industry, as well as in cotton, tobacco and rice plantations and in various services such as car washing, shoe cleaning and transportation of carriages in the markets. **The Committee therefore requests that the Government take the necessary measures to strengthen the capacity and expand the reach of the State Supervisory Services so as to ensure appropriate monitoring of child labour in the informal economy and to guarantee the protection afforded by the Convention to children under the age of 16 years who are working in the informal economy. It also requests that the Government provide information on the number of inspections conducted by the State Supervisory Service in the informal economy as well as the number of violations detected with regard to the employment of children in this sector.**

*Application of the Convention in practice.* Following its previous comments, the Committee notes from the *Working children in the Republic of Tajikistan: The results of the child labour survey 2012-2013* (CLS report), issued on 17 February 2016, conducted in cooperation with ILO-IPEC, that of the 2.2 million children aged between 5 to 17 years in Tajikistan, 522,000 (26.9 per cent) are working, with an employment prevalence rate of 10.7 per cent among 5 to 11 year-olds and 30.2 per cent among 12 to 14 year-olds. About 82.8 per cent of working children are employed in the agricultural sector, 4.4 per cent in wholesale and retail trade, and 3 per cent in manufacturing and construction. Of the total number of working children, 21.7 per cent are involved in hazardous work, including in agriculture, fishery and related works, forestry and related works, construction and street work. The CLS report also indicates that children more often combine schooling with unpaid household services and employment. However, the Committee also notes that the Committee on Economic, Social and Cultural Rights, in its concluding observations of March 2015, expressed concern at the large number of children, mostly from single-parent families and migrant worker families, who are involved in child labour, and that 13 per cent of them are working in dangerous conditions, while 10 per cent never attend school (E/C.12/TJK/CO/2-3, paragraph 24). The Committee must express its **concern** at the significant number of children working in the country, particularly in hazardous work. **The Committee therefore strongly encourages the Government to strengthen its efforts to ensure the progressive elimination of child labour in the country. It requests that the Government provide information on the measures taken in this regard as well as the manner in which the Convention is applied in practice, including information on the number and nature of contraventions detected with regard to the employment of children below the minimum age as well as in hazardous work, and on the penalties applied.**

*Noting the Government's intention to seek assistance from the ILO, the Committee encourages the Government to take the necessary measures to avail itself of ILO technical assistance, with a view to bringing its law and practice into conformity with 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.**

## United Republic of Tanzania

### **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 and application of the Convention in practice.* The Committee previously noted that, the Government signed a Memorandum of Understanding with the Government of Brazil with the technical support of the ILO to undertake a project in supporting the implementation of the National Action Plan for the Elimination of Child Labour (NAP). The Committee also noted that, the ILO facilitated the dissemination of the NAP by training 148 government officials in the southern regions of Lindi and Mtwara on its effective implementation, as well as 110 local government officials on upscaling child labour interventions into their plans and budgets.

The Committee notes the Government's information in its report that, in execution of the MoU with the Government of Brazil, awareness raising of the NAP was also made to local government officials and stakeholders in other regions of Mbeya, Ruvuma, Mwanza, Arusha and Tanga, along with the establishment and reactivation of district child labour subcommittees. Moreover, measures are under way to look into the possibility of initiating a review process of the NAP with a view to accommodating new developments.

However, the Committee also notes that, the third National Child Labour Survey (NCLS) in mainland Tanzania was carried out in 2014 with the technical and financial support of the ILO. According to the NCLS analytical report released in January 2016, the percentage of economically active children aged 5–17 years stands at 34.5 per cent at national level, while agriculture, forestry and fishing is the single most important industry in terms of the child labour force, employing 92.1 per cent of all working children. The Committee observes that, 22.1 per cent among children aged 5–11 years are working, and 36 per cent among children aged 12–13 are involved in economic activities other than light work, which amounts to about 2.76 million children in total. Recalling that the minimum age for employment or engagement of a child is specified as 14 years by section 5 of the Employment and Labour Relations Act 2004 and section 77 of the Law of Child Act 2009, the Committee expresses its **concern** at the significant number of children below the minimum age working in Tanzania. **While taking note of the measures undertaken by the Government, the Committee urges the Government to strengthen its efforts to ensure the progressive elimination of child labour, and to continue taking measures to ensure that the NAP is effectively implemented. The Committee also requests provide concrete information on the results achieved in terms of progressively eliminating child labour.**

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.

*Article 3(d), labour inspection and application of the Convention in practice. Worst forms of child labour. Hazardous work.* The Committee notes that the third National Child Labour Survey (NCLS) covering children aged 5–17 years in mainland

Tanzania was carried out with ILO technical and financial assistance in 2014. According to the NCLS analytical report released in January 2016, children in hazardous work amount to about 3.16 million, which constitutes 62.4 per cent of working children and 21.5 per cent of children aged 5–17 years. The highest proportion of children classified in hazardous work corresponds to those working under hazardous working conditions (87.2 per cent) followed by those working long hours (29 per cent). The report also shows that carrying of heavy loads is the most common hazard, which involves 65.1 per cent of children in hazardous work. In addition, 46.8 per cent of total children in hazardous work experienced injuries, illness or poor health, which occurred as a result of work. The Committee must express its *deep concern* at the large number of children working in hazardous conditions. **The Committee therefore urges the Government to intensify its efforts to eliminate the worst forms of child labour, in particular hazardous work, and to continue providing information on the nature, extent and trends of the worst forms of child labour. In this regard, the Committee requests the Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to the labour inspectors to detect cases of children engaged in hazardous work.**

*Article 6. Programmes of action for the elimination of the worst forms of child labour.* The Committee previously noted that, within the framework of the ILO–Brazil Partnership Programme for the Promotion of South–South Cooperation, the Government developed a National Action Plan for the Elimination of Child Labour (NAP). Through the NAP, 148 government officials were sensitized on the worst forms of child labour and on the list of hazardous work. Moreover, child labour subcommittees were established in the districts of Ruangwa, Masasi, Liwale and Lindi Urban to oversee child labour issues. The Committee also noted with interest that during the 2011–12 financial year, a total of 17,243 children were withdrawn from the worst forms of child labour, and 5,073 children were prevented from engaging in these worst forms. Out of these 22,316 children, 5,410 were admitted into vocational training programmes, 2,402 into primary education, and 1,235 into complementary basic education and training. In 2012–13, a total of 1,994 children were withdrawn from the worst forms of child labour.

The Committee notes the Government’s information that, in collaboration with the ILO, the Government is implementing a number of programmes, including the South–South Cooperation with the support of the Government of Brazil in the cotton sector, the Achieving Reduction of Child Labour in Support of Education (ARISE) programme with the support of Japan Tobacco International (JTI), and the Promoting Sustainable Practices to Eradicate Child Labour in Tobacco (PROSPER+) programme with the support of Winrock International in the tobacco sector. Furthermore, macrosocial and economic efforts are being undertaken by the Government, such as improvement of the education sector and the living standards of people. **The Committee requests the Government to continue providing information on the implementation of the NAP, as well as the abovementioned programmes, and the results achieved in terms of eliminating the worst forms of child labour.**

*Article 7(1). Penalties.* The Committee previously noted that sections 78, 79, 80 and 83 of the Law of the Child Act establish penalties ranging from 100,000 Tanzanian shillings (TZS) to TZS500 million, in addition to imprisonment for the offences related to hazardous work, forced labour, prostitution and the sexual exploitation of children. The Committee also noted that, according to the May 2013 report on the follow-up mission conducted in the framework of the Special Programme Account (SPA mission report), special labour inspections were carried out in agriculture and mining in Arusha and Ruvuma, and the three inspections in Ruvuma detected 16 boys and 21 girls under 18 years of age who were found engaged in hazardous work. However, the Committee observed that, according to the report, while ensuring effective prosecutions for violations related to child labour was one of the aims of the action plan of the SPA and training was provided to labour prosecutors, there had not yet been any prosecutions on this matter and more effective mechanisms were necessary.

The Committee notes with *concern* the Government’s statement in its report that so far there have been no prosecutions, convictions or penalties in connection with the abovementioned provisions of the Law of the Child Act. **The Committee once again requests the Government to take immediate measures to ensure that thorough investigations and robust prosecutions are carried out against the perpetrators of the worst forms of child labour, including hazardous work. In this regard, it once again requests the Government to provide information on the number of investigations, prosecutions, convictions and penalties imposed.**

*Article 7(2). Effective and time-bound measures. Clause (d). Identify and reach out to children at special risk.* The Committee previously noted that, in collaboration with stakeholders, the Government developed and implemented the National Costed Plan of Action for the Most Vulnerable Children (2007–10) (NCPA–MVC). With the implementation of this plan, the identification of vulnerable children was improved, access to basic support was strengthened, and care and support for the most vulnerable children was mainstreamed into the budgets of the central Government and councils. Other measures included training for community justice facilitators to provide paralegal support, as well as for other facilitators at different levels (national, district and village) to identify the most vulnerable children.

The Committee notes the Government’s information that the Free Education Programme for Primary and Secondary Level Education, which is being implemented, will increase access to educational opportunities for children orphaned by HIV/AIDS. The Committee further notes that the second National Costed Plan of Action for Most Vulnerable Children (NCPA II, 2013–17) was launched in February 2013, which calls for a government-led and community-driven response to facilitate access of MVCs to adequate care, support, protection and basic social services, along with a National MVC Monitoring and Evaluation Plan adopted in January 2015 to ensure an effective and efficient coordination of MVC programme interventions.

However, the Committee also notes that, according to the 2015 UNAIDS estimates on HIV and AIDS, there remain approximately 790,000 child orphans of HIV/AIDS. Moreover, the Government’s country progress report to the United Nations General Assembly Special Session on the Declaration of Commitment to HIV/AIDS of 2014 shows that only 26,670 orphans and vulnerable children (OVCs) were supported with health care, food, educational supplies, nutritional and psychological services. **Considering that children orphaned by HIV/AIDS are at an increased risk of being engaged in the worst forms of child labour, the Committee once again urges the Government to strengthen its efforts to ensure that children orphaned by HIV/AIDS are prevented from being engaged in these worst forms, in particular by increasing their access to education and vocational training, and supporting them with the abovementioned services. The Committee requests the Government to continue providing 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 hopes that the Government will make every effort to take the necessary action in the near future.**

## Thailand

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2004)**

*Article 1 of the Convention. National policy, labour inspection and application of the Convention in practice.* The Committee previously noted that child labour was a problem in the country and in practice children in rural areas worked in sugar cane, cassava and corn plantations, in rice paddies, in fisheries, shrimp farms and seafood processing under conditions which are often hazardous. In urban areas, children worked in sectors such as restaurants, markets, street vending, construction and entertainment. The Committee noted that according to the information from the Ministry of Labour in December 2015, there were an estimated 10.88 million children aged between 5–17 years, of which 6.4 per cent were working (692,819) and 2.9 per cent were considered in child labour (approximately 315,520). However, the Committee observed that the number of cases of child labour identified by the Department of Labour Protection and Welfare (DLPW) was extremely low compared to the number of children considered to be in child labour. The Committee therefore requested the Government to pursue and strengthen its efforts to identify and combat child labour and to indicate the measures taken to strengthen the capacity and expand the reach of the labour inspectorate and of the relevant law enforcement agencies, as well as of the child labour monitoring system.

The Committee notes the Government's information in its report on the various measures taken for the elimination of child labour. Accordingly, the Committee notes that the "World Day Against Child Labour" was held on 11 June 2019 focusing on awareness-raising on the issue of child labour and its worst forms. In addition, actions and policies under the National Child and Youth Development Plan, 2017–2021, the Family Development Policy and Strategy 2017–2021 and various national education policies from the Ministry of Education are also being implemented. Furthermore, output 2.2 of the Thailand Decent Work Country Programme (DWCP) 2019–2021 aims to reduce unacceptable forms of work, especially child labour through the effective implementation of relevant policies and programmes.

Regarding the measures taken to strengthen the capacity and expand the reach of the labour inspectorate, the Government indicates that: (i) the number of labour inspectors was increased from 1,245 inspectors in 2016, to 1,506 in 2017, and to 1,900 inspectors in 2018; (ii) the labour inspection system was integrated in sectors where child labour is more prevalent, such as in marine fishing vessels and aquaculture processing establishments; (iii) a Ministerial Regulation on Labour Protection in Marine Fisheries, 2018 was issued which authorizes the labour inspectors to issue criminal charges against persons who involve children under 18 years in child labour and hazardous work; and (iv) several training activities for labour inspectors were organized to strengthen their ability to enforce labour protection laws. The Committee further notes from the Government's report that according to the data from the Economic-Labour Activity Report (October–December), 2018, a total of 42,685 establishments were inspected by the labour inspection of the Ministry of Labour in 2018, of which 527 establishments were found to be engaging child labour, a reduction by 378 establishments in 2017. Children under the age of 15 years were found to be working in hotel and restaurants, wholesale, retail and repairs, manufacturing, construction and real estate services. Furthermore, criminal prosecutions were carried out in 95 cases for violation of the provisions related to child labour under the Labour Protection Act, 1998, involving 206 offenders and in 53 cases offenders were penalized with fines amounting to 1,090,000 baht. These cases were related to the hiring of children under 15 years (18 cases); not notifying the hiring of children under 18 years to the labour inspectorate (64 cases); and engaging children under 18 years in forbidden work or places (13 cases).

The Committee further notes that according to the results of the National Working Children Survey of 2018, of the total number of 10.47 million children aged between 5–17 years, 409,000 children (3.9 per cent of all children) are engaged in economic activities, of which 177,000 children are involved in child labour and 133,000 children are engaged in hazardous work. Children are mostly involved in work in the agricultural sector (46.3 per cent); commerce and service sector (39.5 per cent); and in the manufacturing sector (14.2 per cent). Of these, 65.1 per cent are engaged in unpaid household businesses and 31.3 per cent in the private sector. Gender disaggregated data indicate 127,000 boys (71.9 per cent) and 49,700 girls (28.1 per cent) are involved in child labour. While taking due note of the measures taken by the Government to combat child labour, the Committee notes that the number of children involved in child labour is still significant. ***The Committee therefore urges the Government to continue taking effective measures to identify and combat child labour, including within the framework of the DWCP. It also encourages the Government to continue its efforts to strengthen the capacity and expand the reach of the labour inspectorate to the agricultural, commerce and service sector, marine fishing vessels and aquaculture processing establishments where child labour is more prevalent and to continue providing information in this regard. The Committee also requests the Government to continue to provide information on the number and nature of violations detected by the labour inspectors and the relevant law enforcement bodies and penalties applied in child labour cases.***

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)**

*Articles 3(a), 5 and 7(1) of the Convention. Worst forms of child labour, monitoring mechanisms and penalties.*

1. *Trafficking.* In its previous comments, the Committee noted the establishment of a Centre for Combating Human Trafficking (CCHT) in the offices of each police commander which receive complaints and investigate offences related to trafficking in persons and One Stop Critical Centres were established to monitor all anti-human trafficking activities. It also

noted the statistical information provided by the Government on the number of cases of trafficking of children registered, prosecutions carried out and penalties imposed. However, it noted that the United Nations Committee on the Rights of the Child (CRC), in its concluding observations expressed its concerns at the increase in the trafficking of children from neighbouring countries into Thailand for sexual exploitation, contributing to the large child sex tourism industry in the country, while Thai children were often trafficked to foreign countries for sexual exploitation (CRC/C/THA/CO/3-4, paragraph 76). The Committee, therefore, strongly urged the Government to intensify its efforts to strengthen the capacity of law enforcement officials responsible for the monitoring of trafficking in children to ensure the effective implementation of the Anti-Trafficking in Persons Act.

The Committee notes the Government's information in its report that the 2018 Emergency Decree amending the Anti-Trafficking in Persons Act of 2008 has been adopted. According to section 4 of the Decree, section 6(1) of the Act of 2008 shall be repealed and replaced as follows: Any person who for the purpose of exploitation, commits any of the offences related to procuring, buying, selling, vending, bringing, sending, detaining, confining, harbouring or receiving a child shall be guilty of trafficking in persons. The term "exploitation" is defined to include a wide range of offences, including prostitution, production or distribution of pornographic materials, exploitation of other forms of sexual acts, slavery like practices, begging, forced labour services and any other forcible extortion regardless of such person's consent. The Committee also notes the detailed information provided by the Government on the training activities, seminars and personnel development programme carried out by the Department of Labour Protection and Welfare (DLPW) from 2016 to 2018 for government officials, labour inspectors, public officials and non-governmental officials to enhance their capacity to monitor and identify child victims of trafficking and on protection of victims of trafficking, including:

- Law Enforcement Efficiency for Qualitative Labour Inspectors Training Project which was attended by over 100 labour inspectors;
- workshop for public prosecutors to strengthen the effectiveness of trafficking in persons investigations and prosecutions;
- seminars on victim identification and investigation of trafficking in persons litigation for 200 police officers;
- child safeguard training activities on the protection of child victims of trafficking for staff in Trafficking in Persons Protection Centres;
- victim specialized training activities for 711 trainees; and
- training of trainers to prevent trafficking in persons attended by 228 trainees.

Furthermore, several manuals and guidelines on the effective implementation of the Anti-Trafficking Act were issued, including: (i) the Labour Inspection Guidelines on the procedures to be followed on detecting cases of trafficking in persons including children; (ii) the operational guideline manuals for combating trafficking in persons issued by the Royal Thai Police; (iii) the Trafficking in Persons Case Management Guideline issued in collaboration with the Australia–Asia Programme to Combat Trafficking in Persons; and (iv) the Thai Internet Crimes Against Children 101 Manual issued with the assistance of the Federal Bureau of Investigations for inquiry officials and primary offender prosecution against online child sexual abuse.

The Committee further notes that according to the statistics from the Royal Thai Police from October 2018 to September 2019, 205 cases related to trafficking of children involving 342 victims were registered under the Anti-Human Trafficking Act, of which 172 cases were prosecuted. Moreover, in 2019 the Thailand Anti-Trafficking in Persons Task Force (TATIP) investigated six cases of trafficking of children for sexual exploitation. The Government report also refers to certain cases of criminal proceedings and disciplinary measures taken against government officials as well as asset seizure from government officials for their alleged involvement in the offences related to trafficking of persons. The Committee notes that according to the United Nations Office on Drugs and Crime (UNODC) report, entitled *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand, August 2017*, children are trafficked from Cambodia, Lao People's Democratic Republic and Myanmar to Thailand for the purpose of labour and sexual exploitation and forced begging. Boys are trafficked into Thailand's fishing, construction and manufacturing industries, while girls are trafficked for domestic services, hospitality and retail industries. The Committee further notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations of July 2017 expressed its concern that the State party remained a source, destination and transit country for trafficking in persons, particularly women and girls, for sexual and labour exploitation. The CEDAW also expressed concern at the lack of effective identification of victims of trafficking in practice and the prevalence of corruption and complicity of officials in trafficking cases, which impede the efforts to prevent and combat trafficking (CEDAW/C/THA/CO/6-7, paragraph 24). ***While taking due note of the measures taken by the Government, the Committee urges the Government to continue its efforts to eliminate in practice the trafficking of children by ensuring that thorough investigations and prosecutions are carried out for persons who engage in the trafficking of children, including complicit government officials, and that sufficiently effective and dissuasive sanctions are imposed in practice. It requests the Government to continue its efforts to strengthen the capacity of law enforcement agencies in identifying and combating the sale and trafficking of children under 18 years of age. The Committee further requests the Government to continue to provide information on the number of reported violations, investigations, prosecutions, convictions and penal sanctions imposed in cases related to the trafficking of children.***

2. *Children engaged in prostitution.* In its previous comments, the Committee noted that the CRC expressed concern at the fact that prostitution was practised quite openly, with the involvement of large numbers of children and that corruption and cases of police officers involved in the child sex trade industry contribute to the problem. The CRC also expressed concern that the existing laws, administrative measures, social policies and programmes of the State party were insufficient and do not adequately prevent children from becoming victims of these offences (CRC/C/OPSC/THA/CO/1, paragraph 21). The Committee urged the Government to take the necessary measures to ensure that persons suspected of procuring, using, offering or employing children under 18 for prostitution, including complicit and corrupt officials, are subject to thorough investigations and robust prosecutions and that sufficiently effective and dissuasive penalties are imposed in practice.

The Committee notes the Government's information that the Royal Thai Police is undertaking genuine efforts to arrest, investigate and punish perpetrators, including government officials who are involved in the use, procuring or offering of children for prostitution. According to the information provided by the Government, in 2018 the court sentenced 12 government officials for the offences related to the use or procuring of children for prostitution. In addition, disciplinary action was taken against three military officials and one police official for procurement of child prostitution in 2014 and 2016 respectively. The Committee also notes the Government's statement that it has strengthened law enforcement by creating a special task force consisting of officials from the Department of Provincial Administration, the Tourist Police, the Department of Juvenile Observation and Protection, the Ministry of Justice and other related agencies to patrol and inspect at-risk entertainment facilities and to investigate and arrest persons involved in the commercial sexual exploitation of children. Accordingly, in 2018, a total of 7,497 facilities were inspected, five-year closure orders were issued to 97 facilities, and seven prosecution cases related to trafficking in persons were initiated. Moreover, data from the Royal Thai Police reveals that 187 cases of trafficking of children registered in 2018 were for the purpose of commercial sexual exploitation and in 160 cases involving 318 victims, prosecution proceedings were ordered. Moreover, the operations undertaken by the TATIP, the Thailand Internet Crimes Against Children Task Force (TICAC) and the Anti-Human Trafficking Division have also resulted in the investigation and prosecution of several cases of trafficking of children for commercial sexual exploitation. The Committee notes from the UNODC report of 2017 that sexual exploitation is the most common form of trafficking involving girls and most migrant girls working in Thailand's sex industry are 16–18 years old. However, boys particularly those living in tourism spots are also vulnerable to sexual exploitation. ***The Committee encourages the Government to strengthen its efforts to ensure that persons who use, procure or offer children under 18 for prostitution are subject to thorough investigations and prosecutions and that sufficiently effective and dissuasive penalties are imposed in practice. It requests the Government to continue to provide statistical information on the number and nature of violations reported, investigations, prosecutions, convictions and penalties imposed in this respect.***

*Article 7(2). Effective and time-bound measures. Clause (b). 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. Child victims of trafficking and commercial sexual exploitation.* In its previous comments, the Committee noted the Government's information concerning the measures taken to assist child victims of trafficking, including the provision of compensation and a fund for rehabilitation, occupational training and development from the Ministry of Social Development and Human Security (MSDHS). The Committee requested the Government to pursue its efforts to provide compensation and financial assistance for child victims of trafficking as well as to provide information on the number of child victims of trafficking who have been provided assistance and rehabilitated in its various protection centres.

The Committee notes the Government's information that the victims of trafficking have the right to receive compensation from the Anti-Human Trafficking Fund and through damage compensation from offenders. In this regard, the Committee notes the Government's information that in 2019, 116 victims of trafficking received a total compensation of over 77.56 million baht. The Government further indicates that the MSDHS and Save the Children ensure that child victims of the worst forms of child labour are protected under the Child Safeguarding Standard. In 2018, 186 child victims of prostitution were provided protection and assistance by the MSDHS. The Committee notes that a victim normally spends six months in government shelters where they receive rehabilitation and reintegration services which ensure that they are safe and protected from being trafficked again. ***The Committee requests the Government to continue its efforts to provide compensation and financial assistance for child victims of trafficking and to continue providing information in this regard. It also requests the Government to continue to provide information on the number of child victims of trafficking and commercial sexual exploitation who have been provided assistance and rehabilitated in its protection centres. Please provide data disaggregated by gender and age.***

*Article 8. International cooperation and assistance. Regional cooperation and bilateral agreements.* In its previous comments, the Committee noted that in 2015, the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), to which Thailand is a party along with Cambodia, China, Lao People's Democratic Republic and Myanmar, adopted the draft phase four of the sub regional plan of action to combat trafficking in persons. It also noted the various activities undertaken by the Department of Social Development and Welfare of the MSDHS, in cooperation with other neighbouring countries. The Government indicated that it was in the process of initiating bilateral MoUs with the Governments of Malaysia, Brunei Darussalam, United Arab Emirates, China and India. The Committee encouraged the Government to pursue its international cooperation efforts with regard to combating the trafficking of persons under 18.

The Committee notes the Government's information that Thailand has signed trafficking in persons bilateral agreements with Laos People's Democratic Republic in July 2017; with Myanmar in August 2018; with the United Arab Emirates in February 2018; and with China in November 2018. Furthermore, the ASEAN Regional Cooperation, an association of Southeast Asian States of which Thailand is a member, has adopted the ASEAN Convention on Anti-Trafficking in Persons, 2017 and the ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children, implemented through the Bohol Trafficking in Person Work Plan 2017–2020. Furthermore, the Regional Guidelines and Procedures to address the Needs of Victims of Trafficking in Persons have been launched in April 2019. ***The Committee encourages the Government to pursue its efforts to cooperate with the neighbouring countries with a view to eliminating child trafficking for labour and commercial sexual exploitation. It also requests the Government to continue to provide information on the measures taken or envisaged in this regard, including through the COMMIT and ASEAN Regional Cooperation as well as the measures taken to ensure the rehabilitation, social integration and repatriation of child victims of trafficking.***

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

## Togo

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1984)**

The Committee notes that the Government's report contains no reply to its previous comments. 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 was participating in a project to combat child labour through education that was being implemented with the support of ILO-IPEC (the ILO-IPEC-CECLET project), through which a national survey of child labour in Togo (ENTE) was carried out and completed. The survey revealed that around six out of ten children between 5 and 17 years of age (58.1 per cent or 1,177,341 children) were economically active at the national level. The survey also showed that the incidence of children aged 5 to 14 who were engaged in work to be abolished – meaning the performance by a child of prohibited work and, more generally, of types of work that should be eliminated as they are considered socially and morally undesirable under national law – was 54.9 per cent. The results further showed that children aged 5 to 14 years worked in agriculture (52.2 per cent), domestic work (26.3 per cent) as well as other sectors.

The Committee notes the Government's indication in its report that it has established several policies and strategies to abolish child labour and progressively raise the minimum age for admission to employment. These include the adoption by the Government of a Five-Year Action Plan (2013–17), which includes measures to combat child labour and the worst forms thereof. However, the Government's report does not contain any information on the implementation of these strategies or their impact and the results achieved. Moreover, the Committee notes that, according to UNICEF statistics, the figure for child labour for the 2002–12 period was 28.3 per cent. The Committee once again notes with *concern* the number of children under the minimum age who work in Togo. ***The Committee therefore urges the Government to intensify its efforts to combat child labour, especially by devoting special attention to children working in agriculture and in the informal economy, and to provide information on the impact of the measures taken and the results achieved.***

*Article 2(1). Scope of application and labour inspection.* In its previous comments, the Committee noted that section 150 of the Labour Code of 2006 provides that children under 15 years of age may not be employed in any enterprise or perform any type of work, even on their own account. The Committee noted with interest that a number of measures had been adopted to strengthen the action of the labour inspection services, especially with regard to monitoring the conditions of work of working-age children. The Government also indicated that, with ILO technical and financial support, it was planning to establish an information system relating to the activities of the labour inspectorate so as to create greater transparency in the action taken to enforce the law. ***Noting the lack of information provided on this matter, the Committee once again requests the Government to continue taking the necessary steps to strengthen the capacity of the labour inspection services to ensure that all children under 15 years of age, including those working on their own account or in the informal economy, enjoy the protection afforded by the Convention, and to provide information on the results achieved.***

*Article 3(3). Admission to hazardous work from the age of 16 years.* In its previous comments, the Committee noted that certain provisions of Order No. 1464/MTEFP/DGTLS of 12 November 2007 authorize the employment of children from the age of 16 years in work that is liable to harm their health, safety or morals. The Committee also noted that section 12 authorizes children over 15 years of age to carry, pull or push heavy loads – weighing up to 140 kilograms in the case of some 15 year-old boys working with wheelbarrows. Furthermore, the Committee observed that there were no provisions as required by *Article 3(3)* of the Convention that protect them in this type of work. The Government indicated that it was committed to taking the necessary steps to revise Order No. 1464 in order to bring it into line with the Convention.

The Committee notes the Government's indication that it considers Order No. 1464/MTEFP/DGTLS of 12 November 2007 to be in conformity with the Convention. The Committee is therefore bound to remind the Government once again that, under *Article 3(3)* of the Convention, national laws or regulations may, after consultation with employers' and workers' organizations, authorize the performance of hazardous types of work by young persons from the age of 16 years on condition 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 once again to take the necessary steps to ensure that Order No. 1464/MTEFP/DGTLS is amended in the near future to bring it into line with Article 3(3) of the Convention. It once again requests the Government to provide a copy of the Order, once it has been duly revised.***

*Article 6. Apprenticeships.* The Committee previously noted that, under the ILO-IPEC-CECLET project, a draft code on apprenticeships has been prepared which specifies the conditions to be observed in apprenticeship contracts and stipulates that no such contracts may start before the completion of compulsory schooling and, in any case, not before the age of 15 years. The Apprenticeship Code has already received technical approval and is currently before the Government awaiting adoption by the Council of Ministers. ***Noting the lack of information received on this matter, the Committee hopes that the Apprenticeship Code will be adopted in the near future and once again requests the Government to provide information in this respect.***

*Article 8. Artistic performances.* The Committee previously noted that, under section 150 of the Labour Code of 2006, the minimum age for admission to employment or work is set at 15 years, unless exceptions are established by order of the Labour Minister. The Government indicated that, in accordance with section 150 of the Labour Code, an order establishing exceptions to the minimum age for admission to employment has been prepared and is awaiting approval by the National Council for Labour and Labour Legislation, the members of which include the social partners. The draft order provides that, outside school hours and in the interest of art, science or education, the labour inspector may grant individual permits to children under 15 years of age to allow them to appear in public performances and to participate as actors or extras in films. The Government indicated that these exceptions will be granted after consultation with the employers' and workers' organizations concerned and will specify the authorized number of hours of work and the working conditions.

The Committee notes the Government's indication that section 259 of the Children's Code establishes the right of children to participate in cultural and artistic activities. The Committee recalls that *Article 8* of the Convention provides for exceptions to the minimum age for admission to employment in individual cases for participation in activities such as artistic performances. However, it notes that section 259 does not constitute an exception to the minimum age for admission to work, but belongs to Part III of the Code, which establishes "children's right to leisure and to recreation and cultural activities". ***The Committee therefore requests take the necessary steps to adopt the draft order with a view to bringing the legislation into conformity with Article 8 of the Convention. It requests provide information on progress made in this respect and to send a copy of the order, once it has been adopted.***

***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: 2000)**

*Article 3(a) and Article 7(1) and (2)(a) and (b) of the Convention. Sale and trafficking of children and penalties. Effective and time-bound measures for prevention, assistance and removal of children from the worst forms of child labour.* In its previous comments, the Committee noted that Act No. 2005-009 of 3 August 2005, concerning the trafficking of children prohibits the sale and trafficking of children. However, children living in poor and rural areas continued to be particularly vulnerable to trafficking inside and outside Togo for domestic and agricultural work and sexual exploitation, and the internal trafficking and sale of children have continued to be largely ignored. Traffickers rarely appear to be prosecuted; some are released owing to the corruption of State officials or are given light sentences. The National Commission for the Shelter and Social Reintegration of Child Victims of Trafficking (CNARSEVT) succeeded in identifying 281 child victims of trafficking, of whom 53 were repatriated, from Nigeria, Benin and Gabon. As a result of various action programmes, 840 families of child victims of trafficking received financial assistance and support in developing income-generating activities with a view to improving their living conditions. An anti-trafficking unit comprising five magistrates was established.

The Committee notes the Government's indication in its report that in 2016, child protection structures registered 1,723 child victims of cross-border trafficking. There were 609 child victims of internal trafficking. Furthermore, 551 child victims of trafficking were socially reintegrated through school enrolment and 182 received vocational training. In that year, the Government recorded 47 investigations, 33 prosecutions and 22 convictions. In 2018, 49 cases were investigated and prosecuted and eight convictions were handed down. A project to combat child sex trafficking being implemented in the prefecture of Anié since 2018 will make it possible, during the period from March 2018 to February 2020, to train 1,350 students on trafficking issues and to provide 1,075 adults and 75 young people with training and direct assistance in the form of a kit for savings and the creation of income-generating activities. However, the Committee notes the Government's indication that there are difficulties relating to the punishment of traffickers who, increasingly, are developing strategies and methods of operation beyond the reach of the law enforcement agencies. Furthermore, as a result of financial difficulties it is not possible to ensure the social and occupational rehabilitation of all child victims. ***The Committee encourages the Government to intensify its efforts to combat trafficking in children. It requests the Government to take the necessary measures to ensure that thorough investigations are carried out, prosecutions brought and sufficiently effective and dissuasive penalties imposed in trafficking cases involving persons under the age of 18 years. Please provide detailed information on the number and nature of convictions handed down and criminal penalties imposed. Noting the absence of information in this regard in the report, the Committee once again requests the Government to provide information on the impact of the anti-trafficking unit in terms of removing children from this worst form of child labour and ensuring their rehabilitation and social integration. It also requests the Government, once again, to provide information on the activities of the CNARSEVT and to continue to provide information on the results achieved in terms of the number of child victims of trafficking who have been repatriated, provided with care and reintegrated.***

*Article 3(a) and (d) and Article 7(2)(b). Forced or compulsory labour and hazardous work and effective and time-bound measures. Child domestic work.* The Committee previously noted that section 151(1) of the Labour Code of 2006 prohibits forced labour, which is defined as one of the worst forms of child labour. It also noted that according to Order No. 1464/MTEFP/DGTLIS of 12 November 2007, determining the types of work prohibited for children, domestic work is considered to be a hazardous type of work prohibited for children under the age of 18 years. However, noting the ITUC's communication reporting that there are thousands of child domestic workers in Togo, the large majority of whom are girls from poor and rural areas of the country who perform various potentially hazardous household tasks in private homes, the Committee noted with regret the lack of information from the Government on the application of the provisions relating to this worst form of child labour.

The Committee notes the recent conclusions of the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, on her visit to Togo from 27 to 31 May 2019, according to whom the

domestic servitude of children remains a national problem. Although boys are also subject to forced labour in the construction, mining and agricultural sectors and in engineering workshops, girls are disproportionately affected by domestic servitude. This situation is consistent with social norms that continue to discriminate against women. Noting with *deep regret* the absence of information from the Government in this regard in its report, the Committee is bound to remind the Government once again that, under the terms of *Article 3(a) and (d)* of the Convention, the work or employment of children under the age of 18 years under conditions similar to slavery or under hazardous conditions constitute the worst forms of child labour and that, under *Article 1* of the Convention, immediate and effective measures must be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. ***The Committee urges the Government to take immediate and effective measures to ensure the effective application of the national legislation so that children under 18 years of age do not perform domestic work, giving full application to Order No. 1464/MTEFP/DGTLs of 12 November 2007, and, in practice, do not work under conditions similar to slavery or under hazardous conditions. In this respect, it once again urges the Government to provide information on the application of the provisions relating to these worst form of child labour, including statistics on the number and nature of reported violations, investigations, prosecutions, convictions and criminal penalties imposed. Furthermore, the Committee strongly encourages the Government to take immediate and effective measures to remove child victims from domestic work, one of the worst forms of child labour, and requests it to provide detailed information on the measures taken and on the number of children actually removed from this worst form of child labour and socially rehabilitated.***

*Article 7(2) of the Convention. Effective and time-bound measures. Clause (d). Identifying and reaching out to children at special risk. Child victims/orphans of HIV/AIDS.* In its previous comments, the Committee noted the Government's statement that, in the context of the ILO–IPEC–CECLET project, a national awareness-raising campaign on schooling for children and non-discrimination towards HIV/AIDS victims has been implemented. Moreover, support for reintegration in school has been given to 300 children under 15 years of age, including 200 children in vulnerable situations as a result of HIV/AIDS and 100 girls not attending school in the five districts of Lomé.

The Committee notes that the Government's report does not contain any new information on the measures taken to prevent the engagement of HIV/AIDS orphans in the worst forms of child labour. However, it notes with *concern* that, according to UNAIDS estimates, the number of HIV/AIDS orphans was put at 84,000 in 2018. ***The Committee, therefore, once again urges the Government to intensify its efforts to ensure that HIV/AIDS orphans receive such protection as to prevent their engagement in the worst forms of child labour. It requests the Government to supply information on the measures taken and the results achieved in this respect.***

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

## Tunisia

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2000)**

*Article 3 of the Convention. Worst forms of child labour. Clauses (a) and (d). Forced or compulsory labour and hazardous work. Child domestic workers.* The Committee previously noted the study entitled "Child domestic workers in Tunisia" (ILO, 2016), according to which many children, in particular young girls, are economically exploited as domestic workers below the minimum age for entry to the labour market of 16 years. All of them work without written contracts and have no social coverage; they work on average for almost ten hours per day. The study underscores that these child domestic workers spend more than two years on average with the same employer. They are victims of health problems related to the arduous nature and long hours of work and to the dangers to which they may be exposed in the performance of various household tasks and other types of work in the employer's home. The Committee expressed its deep concern at the exploitation of children under 18 years of age performing domestic work in hazardous conditions, which could result in situations of forced labour. It urged the Government to take immediate and effective measures to ensure the protection of children under 18 years of age from exploitation in domestic work under hazardous conditions or conditions amounting to forced labour.

The Government refers in its report to the adoption of Act No. 2017-58 of 11 August 2017 on the elimination of violence against women, which prohibits domestic work by children under 18 years of age. Section 20 of the Act provides that anyone who voluntarily and directly or indirectly employs children as domestic workers or acts as an intermediary to employ children as domestic workers shall be liable to a penalty of between three and six months' imprisonment and a fine. The penalty is doubled in the event of a repeat offence. The Government further indicates that it intends to study in depth the possibility of ratifying the Domestic Workers Convention, 2011 (No. 189). ***The Committee encourages the Government to continue its efforts to prevent the exploitation of children under the age of 18 years in domestic work, performed in hazardous conditions or conditions amounting to forced labour, including by ensuring that the new legislation is effectively implemented, with regard to the prohibition against employing child domestic workers under 18 years of age. The Committee requests the Government to provide information on measures for the identification of violations of the prohibition against the employment of domestic workers under the age of 18 years, as well as on the number of violations detected, persons prosecuted and penalties imposed.***

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

## Turkmenistan

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2012)**

*Article 3(2) of the Convention. Determination of hazardous work.* The Committee previously noted the Government's indication that a list of work and occupations with harmful and hazardous working conditions prohibited to children under 18 years was being developed. It requested the Government to provide information on any progress made with regard to the finalization and adoption of this list.

The Committee notes with *satisfaction* that the Ministry of Labour and Social Protection, in agreement with the Ministry of Health and Medical Industry and the State Standards Service, adopted Decree No. 87 of 2018 which contains a comprehensive list of hazardous types of jobs and occupations that are prohibited to children under the age of 18 years. This list contains 42 sectors with more than 2600 activities including: work related to carrying or moving weights; work in underground mines, tunnels, open pits; metal and non-metal production and processing-related works; work in power plants, thermal power plants, electricity; drilling oil, gas, petroleum and its production; chemical production; work in shipyards and aviation industry; construction works; forestry; wood processing, textile and garments; paper and pulp industries; leather works; food industry; production of alcoholic products; communication; agriculture; handicrafts, jewellery and art works; healthcare sector and municipal services. *The Committee requests the Government to provide information on the application in practice of Decree No. 87 of 2018, 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.

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2010)**

The Committee notes the observations made by the International Trade Union Confederation (ITUC) received on 1 September 2019.

*Article 3 of the Convention. Worst forms of child labour. Clause (d). Hazardous work in the cotton sector.* In its previous comments the Committee noted the Government's information that the provisions under the Education Act of 2013 and the Rights of the Child (State Guarantees) Act of 2014, require children to attend school until the age of 18 and not to be involved in any work, including agricultural work that stops them from attending school. It also noted from the report of the ILO Technical Advisory Mission that took place in Ashgabat in September 2016, the statement made by the Minister of Education that children under the age of 18 years are fully engaged in education in Turkmenistan. Moreover, the statements made by the international organizations and foreign embassies that the mission met with, indicated that there were no reports of child labour in the cotton harvest, although access to the cotton fields was difficult.

The Committee notes the observations made by the ITUC that there were numerous cases of child labour reported during the 2017 cotton harvest season. According to the ITUC, during this period, in the Ruhabat and Baharly districts, there were secret orders that mobilized children into the fields during their fall break and there were "truckloads" of children sent to pick cotton. Massive use of child labour in the Mary, Lebap and Dashoguz regions were reported. The ITUC is of the view that, due to the centrally imposed quotas, local officials feel immense pressure and resort to forced labour and child labour. However, the Committee also notes the ITUC's statement that there were efforts by the Turkmen Government to keep children out of the fields in 2018. While *Turkmen.news*' (an independent news and human rights organization) monitors witnessed some children in the cotton fields, these seemed to be isolated cases instead of the previous systematic use of child labour.

In this regard the Committee notes the Government's information in its report of 26 February 2018, submitted to the United Nations Human Rights Council that it has adopted national measures to prohibit child labour, particularly in the cotton sector and that during school year, children may not be hired to perform agricultural work that hinders their studies. Furthermore, officials of educational institutions are subject to disciplinary action under labour law for the use of child labour in educational institutions in any activity, including agriculture (A/HRC/WG.6/30/TKM/1, paragraphs 209–212). *The Committee therefore strongly encourages the Government to continue taking effective measures to ensure that children under 18 years are not engaged in hazardous work or subject to forced labour in the cotton sector, including during the school holidays or their time out of school. It requests the Government to provide specific information on the steps taken in this regard, including measures to enforce the relevant legislation prohibiting children's involvement in the cotton harvest, and on any offences reported, investigations conducted, violations found and penalties imposed.*

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

## Uganda

### **Minimum Age Convention, 1973 (No. 138) (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 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 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.

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

## United States

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 1999)**

The Committee notes the observations received from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) on 9 October 2019. **The Committee requests the Government to provide its comments in this respect.**

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

*Articles 4(1), 5 and 7(1) of the Convention. Determination of types of hazardous work, monitoring mechanisms and penalties. Hazardous work in agriculture from 16 years of age.* The Committee previously noted that section 213 of the Fair Labor Standards Act (FLSA) permits children aged 16 years and above to undertake, in the agricultural sector, occupations declared to be hazardous or detrimental to their health or well-being by the Secretary of Labor. The Government, referring to Paragraph 4 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190), stated that Congress considered it as safe and appropriate for children from the age of 16 years to perform work in the agricultural sector. However, the Committee noted the allegation of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) that a significant number of children under 18 years were employed in agriculture under dangerous conditions, including long hours and exposure to pesticides, with risk of serious injury. The Committee also took note of the observations of the International Organisation of Employers (IOE) and the United States Council for International Business (USCIB) that section 213 of the FLSA, which was the product of extensive consultation with the social partners, is in compliance with the text of the Convention and Paragraph 4 of Recommendation No. 190.

The Committee took note that the Department of Labor's Wage and Hour Division (WHD) continued to focus on improving the safety of children working in agriculture and protecting the greatest number of agricultural workers. In addition, the Occupational Safety and Health Administration (OSHA) increased its focus on agriculture by creating the Office of Maritime and Agriculture (OMA) in 2012, which is responsible for the planning, development and publication of safety and health regulations covering workers in the agricultural industry, as well as guidance documents on specific topics, such as ladder safety in orchards and tractor safety.

The Committee also noted the Government's detailed information concerning the intensification of its efforts to protect young agricultural workers' occupational safety and health. While welcoming such measures, the Committee reminded the Government that work in agriculture was found to be "particularly hazardous for the employment of children" by the Secretary of Labor. In this regard, according to the website of the OSHA, agriculture ranked among the most dangerous industries.

The Committee notes the Government's statement in its report that it remains firmly committed to seeking improvements in child labour safety and health, in particular in agriculture, in full compliance with the requirements of Convention No. 182. There have been numerous increases in the protections of children in both law and practice relating to agricultural work. Chief among these efforts, the WHD continues to focus on improving the safety of children working in agriculture, building upon the Agency's long history of protecting workers, especially children, in the industry. One of the WHD's key strategies is to use education and outreach to promote understanding of agricultural employers' and workers' rights and responsibilities alike. For example, the WHD provides guidance on child labour laws to youth, parents, educators and employers through its YouthRules! website, a comprehensive site providing information and resources for youth at work. The WHD provides a variety of fact sheets and e-tools to employers and young workers to inform and train employers and young workers in a wide range of occupations, including agricultural occupations. In this regard, both the WHD, OSHA and the National Institute for Occupational Safety and Health (NIOSH), continue to engage in extensive outreach activities to reach young workers, such as career expositions and fairs, training seminars, and youth programmes to keep young persons under 18 safe and healthy on the job and to make them aware of their rights under the OSH Act. For example, OSHA and NIOSH have collaborated to inform young workers about the hazards of tobacco farming, providing information about green tobacco sickness as many young workers work in tobacco harvesting fields in the United States. Information on green tobacco sickness is highlighted on OSHA's primary website for agricultural operations.

With regard to enforcement, the Committee notes the Government's indication that the WHD has opened new offices, hired new inspectors to maintain an inspection force of approximately 1,000 inspectors, and increased the number of outreach and planning specialists to cover nearly all of the agency's 55 district offices. Nearly 700 WHD employees speak a language in addition to English (more than 500 WHD employees speak Spanish). WHD's multilingual employees speak nearly 50 languages.

Moreover, the WHD further strengthened its protection of young workers by making full use of the regulatory tools available to it, including the new "hot goods" provision and the Child Labor Enhanced Penalty Program, which have enabled the WHD to impose increased penalties on violators of child labour law. For example, during the reporting period, the WHD imposed penalties of \$40,000 and \$56,000 on manufacturers in Ohio and Indiana for child labour violations that had resulted in severe injuries to young workers. In December 2015, the WHD assessed a \$63,000 penalty against an Ohio chicken processing facility for violating child labour laws when a 17 year-old was severely injured operating and cleaning hazardous poultry processing equipment. The WHD assessed a nearly \$2 million penalty on a Utah pecan grower for child labour violations in April 2015.

The Committee further notes the Government's statement that the health and safety of all agricultural workers, including children, is further protected through the Environmental Protection Agency's Worker Protection Standard (WPS) (40 C.F.R. Part 170), which protects over 2 million agricultural workers (people involved in the production of agricultural plants) and pesticide handlers (people who mix, load, or apply crop pesticides) who work at over 600,000 agricultural establishments (farms, forests, nurseries and greenhouses) from occupational exposure and provides information about avoiding pesticide exposure, what to do in the event of an accidental exposure, and when to stay out of a pesticide-treated area. The Government points out that although previously, there was no federal minimum age for handling agricultural pesticides, this standard has been revised to provide increased protections for workers which take effect in January 2017. In this regard, the Committee notes with *interest* that, under the revised standard children under 18 are prohibited from handling agricultural pesticides.

The Committee finally notes the Government's information regarding the youth surveys conducted by the US Department of Agriculture's National Agricultural Statistics Service (NASS), which developed a surveillance system to track and assess the magnitude and characteristics of non-fatal injuries to youth on US farming operations. Two types of youth surveys are conducted by NASS for NIOSH, one of which is the Childhood Agricultural Injury Survey (CAIS), which is representative of all farms in the country.

The most recent CAIS collected data for youth and youth injuries that occurred during the 2014 calendar year. For 2014, there were an estimated 892,000 youth under 18 years of age living on (household youth) or hired to work on US farms. Of this total, there were 744,000 household youth under 18 years of age, of which 376,000 (50.5 per cent) were reported to have performed work on the farm during the year. The remaining 148,000 youth were hired to work on these farms. Combining household workers with hired workers resulted in an estimated 524,000 youth under 18 years of age who worked on farms in 2014, down from 854,000 working youth under 18 years of age in 2001. The 2014 CAIS indicates that there were an estimated 10,400 injuries to all youth under 18 years of age on US farms, with 64 per cent of injuries occurring to household youth. An estimated 30 per cent of these injuries were work-related.

The Committee notes the Government's statement that the overall number of injuries to youth under 18 years of age on farms decreased by 63 per cent between 1998 and 2014 (28,100 to 10,400), with work-related injuries decreasing by 70 per cent over the same period. An examination of the combined CAIS estimates from all six years of the survey (2001, 2004, 2006, 2009, 2012 and 2014) finds an estimated 34,000 working youth suffered injuries on US farms, of which 3,600 were under the age of 10 years, 13,900 were between the ages of 10 and 15 years, and 8,400 injuries were youth between 16 and 17 years of age. Lacerations and fractures were the most common types of injuries reported in 2014.

The Committee takes due note of the various awareness-raising, educational, inspection and enforcement initiatives taken by the Government to protect the health and safety of young persons working in agriculture and to reduce the number of their work-related injuries on farms. However, the Committee further notes that despite the various government initiatives and programmes to better protect the health and safety of children working in the agricultural industry, a number of children under 18 years still suffer injuries, some serious, while engaged in farm work. In this regard, the Committee recalls that work which, by its nature or the circumstances in which it is carried out was likely to harm the health, safety or morals of children, constitutes one of the worst forms of child labour and, therefore, member States are required to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. While *Article 4(1)* of the Convention allows the types of hazardous work to be determined by national laws or regulations or the competent authority, after consultation with the social partners, the Committee notes that in practice, the agricultural sector, which is not on the list of hazardous types of work, remains an industry that is particularly hazardous to young persons. ***The Committee accordingly encourages the Government to continue taking effective and time-bound measures to ensure that children under 18 years of age only be permitted to perform work in agriculture on the condition that their health and safety are protected and that they receive adequate specific instruction. It requests the Government to pursue its efforts to strengthen the capacity of the institutions responsible for the monitoring of child labour in agriculture, to protect child agricultural workers from hazardous work. The Committee also requests the Government to continue providing detailed statistical information on child labour in agriculture, including the number of work-related injuries of children working in agriculture, as well as the extent and nature of child labour violations detected, investigations carried out, prosecutions, convictions and penalties applied.***

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

## Uruguay

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Article 4(1) and (3) of the Convention. Determination and revision of the list of hazardous types of work.* In its previous comments, the Committee requested the Government to ensure that the national legislation determined the hazardous types of work prohibited for persons under 18 years of age.

The Committee notes with *satisfaction* that the Uruguayan Institute for Children and Young Persons revised and substituted the list of hazardous types of work (Resolution No. 1012/006) with a new detailed list (Resolution No. 3344/2017), which determines the hazardous types of work prohibited for persons under 18 years of age, in a number of categories. Firstly, the hazardous types of work in which children are exposed to physical, chemical, ergonomic,

biological or psychosocial risks. Secondly, the types of work that are hazardous by their nature, including, for example, work in: establishments selling weapons; pyrotechnic activities; logging activities; transport activities on the high seas or inland waterways; industrial, semi-industrial or small-scale fishing activities; mines; agrochemicals; the sale of alcohol; and waste sorting and recycling.

The Committee also notes that the National Committee for the Elimination of Child Labour revised the list in conjunction with employers' and workers' organizations and, from 2017 to 2018, a total of 336 public officials and social actors, as well as 22 labour inspectors received training on the new list of hazardous work prohibited for persons under 18 years of age. *The Committee requests the Government to provide information on the application in practice of Resolution No. 3344/2017, particularly on the number and nature of the violations involving the engagement of young persons in hazardous work.*

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

## Uzbekistan

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2008)**

The Committee notes the observations of the International Union of Food, Agricultural, Hotel, Restaurant, Tobacco and Allied Workers' Associations (IUF) received on 30 August 2019.

*Article 3(a) and (d) of the Convention. Worst forms of child labour. Forced or compulsory labour in cotton production and hazardous work.* In its previous comments, the Committee noted the various legal provisions in Uzbekistan which prohibit both forced labour (including article 37 of the Constitution, section 7 of the Labour Code, and section 138 of the Criminal Code) and the engagement of children in watering and picking cotton (pursuant to the list of occupations with unfavourable working conditions in which it is forbidden to employ persons under 18 years of age). It also noted the adoption of a Decent Work Country Programme (DWCP) 2014–16, which contains components on the application of the Convention and the Minimum Age Convention, 1973 (No. 138), as well as their corollary indicators to combat child labour. Moreover, a feedback mechanism (FBM) with telephone hotline numbers was established by the Tripartite Coordination Council on Child Labour which received complaints and investigated grievances while providing redress in some cases.

The Committee further noted the various measures taken by the Government to prevent the engagement of children in the cotton harvest, including ministerial instructions, awareness and training events, attendance tracking of pupils and staff as well as measures within the framework of the Action Plan for Improving Labour Conditions, Employment and Social Protection of Workers in the Agricultural Sector 2016–18. Moreover, the ILO Third Party Monitoring (TPM) report on the assessment of measures to reduce the risk of child labour and forced labour during the 2016 harvest, in its conclusions, stated that the national monitoring, the FBM and the Ministry of Public Education were playing an increasing role in preventive measures and had put in place measures to prevent the organized use of children in the cotton harvest. The report further stated that child labour generally did not exist in cotton picking and that the ongoing vigilance, in this regard, seemed to be fully recognized in Uzbekistan. The Committee requested the Government to continue its efforts to ensure the effective implementation of national legislation prohibiting compulsory labour and hazardous work for children below the age of 18 years and to continue its measures to monitor the cotton harvest, strengthen record keeping in educational institutions, apply sanctions against persons who engage children in the cotton harvest, and further raise public awareness on this subject.

The Committee notes the observations made by the IUF that serious efforts by the central government have led to a significant reduction in the use of child labour but the quota system (annual cotton production quota imposed on the farmers by the Government) which still exists in the country contributes to the perpetuation of child labour practices in the agricultural sector.

The Committee notes the Government's information in its report on the measures taken, including legislative measures to eliminate the use of child labour in the agricultural sector. Accordingly, the Committee notes the Government's reference to the adoption of Law No. ZRU-558 on insertions of amendments and additions into several pieces of legislation, including section 51 of the Administrative Liability Code thereby stiffening the penalties for engaging a child in forced labour. The penalties include a fine of between 30 and 50 times the minimum monthly remuneration (previously between 5 and 15 times) and a repeat of the offence attracts a fine of between 50 and 100 times the monthly remuneration. The Government also indicates that following the approval of resolution No. 407 of the Cabinet of Ministers of 31 August 2018, consultations were held with representatives of workers' and employers' organisations and an annual plan of national measures to monitor compliance with the fundamental principles and rights at work, using ILO methodology and tools during the cotton harvest has been approved. The Committee further notes the Government's information that during the 2018 monitoring, the ILO assisted the Ministry of Employment and Labour Relations in training over 300 labour inspectors in identifying child and forced labour and on methods of carrying out such inspections. In this regard, 11,000 interviews were carried out without prior notification and over 7,000 people were trained in fair recruitment for the cotton-harvesting season. Moreover, 500 employees of the prosecution service, labour inspectors and trade union officials underwent training in methods to verify cases of child and forced labour. The Committee further notes the Government's information that the DWCP has been extended up to 2020 and a road map for its implementation and to widen cooperation with the ILO has been approved on 1 August 2019. The Government further referring to the Report of the United States Department of Labour, 2019 states

that Uzbek cotton has been removed from the List for Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labour (Executive Order 13226) mainly due to the rarity of cases of child labour in the cotton sector.

The Committee notes from the report published on 1 April 2019 of the ILO Third Party Monitoring of child labour and forced labour during the 2018 cotton harvest (TPM report of 2018) that Uzbekistan demonstrated major progress in the eradication of child labour in the cotton harvest of 2018. It notes with *satisfaction* from the conclusions of the TPM report of 2018 that children are no longer involved in the cotton harvest and the systematic or systemic child labour is no longer a matter of concern. School children and students were not mobilized for cotton picking in the 2018 cotton harvest. ***The Committee requests the Government to continue its efforts to ensure the elimination of compulsory labour and hazardous work of children below the age of 18 years in cotton production, including through awareness raising and monitoring of child labour during the cotton harvest. The Committee requests the Government to continue providing information in this regard.***

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

## Bolivarian Republic of Venezuela

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 1987)***

*Article 1 of the Convention. National policy and application of the Convention in practice.* In its previous comments, the Committee requested the Government to provide information on the penalties imposed for infringements recorded by labour inspectors. It once again requested it to take the necessary steps as soon as possible to ensure that up-to-date statistics on the situation of children and young persons who are working in the country, particularly in hazardous work and the informal economy, are made available. The Committee also requested that the Government provide information on the national measures and policies adopted or contemplated to ensure that all children and young persons, including in the informal economy, benefit from the protection granted by the provisions of the Convention.

The Committee notes in the Government's report that the supervisory units monitor the application of section 32 of the Basic Act on labour and workers, which lays down the prohibition of the engagement in labour of children under 14 years. Of a total of 18,141 inspections conducted between 2016 and 2018, two cases of child labour were detected, regarding adolescents working with their parents in agriculture. Given that corrective measures were implemented by the employers on those occasions, the Government did not initiate a procedure to impose penalties against them.

The Committee notes that the national system of guidance for the comprehensive protection of children and young persons is made up of several action programmes in coordination with the national education system and the national health system, and also notes the national systems entitled "Missions" and "Great Missions". It notes the inter-ministerial cooperation agreement signed in 2018, between the People's Ministry for the Social Process of Labour and the Independent Institute of the National Committee for the Rights of Children and Adolescents, aimed at strengthening the monitoring of working conditions of adolescents under the age of 18. This agreement establishes a system of coordination among institutions based on a digital platform, in order to record data related on labour performed by young persons under 18 years.

The Committee notes the number of young persons registered during labour inspections between 2016 and 2018. In 2016, of the 10,076 inspections led, 2,139 cases of adolescents at work were detected (950 girls and 1,189 boys); in 2017, of the 14,691 inspections conducted, 1,879 cases of adolescents at work were detected (887 girls and 992 boys) and in 2018, of the 24,465 inspections conducted, 1,684 cases of adolescents at work were detected (721 girls and 963 boys). The Government underlines in its report that during inspections, no cases were identified of child or adolescent victims of the worst forms of child labour.

The Committee notes that according to the Government, the children subjected to labour in the informal economy, specifically hawking in open-air markets, popular markets or other places of informal trade activities, are monitored through different programmes led by the Municipal Councils for Children's and Young Persons' Rights and by the Children's and Young Persons' Protection Councils. In addition, checks on the working conditions of self-employed workers have been incorporated by the People's Ministry for the Social Process of Labour into the Comprehensive Programme for Agricultural Inspection. This Programme monitors the participation of children and young persons in the informal economy, including their working hours and the consequences of this type of work on their school attendance. According to the Government's information, of the 446 inspections carried out in family agriculture, child labour does not exceed ten hours and does not interfere with their school attendance. ***The Committee requests the Government to continue to provide statistics on the number of children and adolescents working in the country, including in hazardous work and the informal economy, and information on the number and nature of the infringements detected by labour inspectors, and the penalties imposed in this regard. The Committee also requests the Government to provide detailed information on the actions undertaken and results obtained within the framework of the various programmes, such as the programmes led by the Municipal Councils for Children's and Young Persons' Rights and the Children's and Young Persons' Protection Councils, which monitor the children involved in informal economy activities, and the action programmes in coordination with the national education system and the national health system, and the national systems entitled "Missions" and "Great Missions".***

*Article 3(3). Admission to hazardous work from the age of 16 years.* The Committee once again requested the Government to take the necessary measures as soon as possible to bring its national legislation into conformity with the Convention, ensuring that any exceptions to the prohibition on hazardous work authorized by the Act of 1998 concerning the protection of children and young persons, only apply to young persons between 16 and 18 years of age and only under the conditions laid down in *Article 3(3)* of the Convention.

The Committee notes that the Government, in its report, once again highlights that its legislation prohibits all forms of hazardous work to children under 18 years. It also indicates that sections 78 and 89 of the 1999 Constitution of Venezuela and sections 18 and 96 of the Act of 1998 concerning the protection of children and young persons are in line with the 2012 Basic Act on labour and workers.

However, even though the Regulations on Occupational Health and Safety of 1973 prohibit hazardous or unhealthy activities to young persons under 18 years, the Committee once again emphasizes that under the terms of section 96 of the Act of 1998 concerning the protection of children and young persons, the national executive authority may determine minimum ages higher than 14 years for types of work that are hazardous or harmful to the health of young persons. Further, the Committee once again recalls that the employment of young persons between 16 and 18 years in hazardous work is only authorized subject to the application of strict conditions which ensure their protection and the provision of prior training and is never authorized for young persons under 16 years of age. ***The Committee once again requests that the Government take the necessary measures as soon as possible to bring its national legislation into conformity with the Convention, ensuring that any exceptions to the prohibition on hazardous work authorized by the Act of 1998 concerning the protection of children and young persons, only apply to young persons between 16 and 18 years of age and only under the conditions laid down in Article 3(3) 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: 2005)***

*Articles 3(a) and 7(1) of the Convention. Sale and trafficking of children; and penalties.* In its previous comments, the Committee noted with concern the impunity which appeared to exist in Venezuela for the perpetrators of the crime of child trafficking. The Committee requested the Government to intensify its efforts to combat such impunity. It requested the Government to supply information on the number of convictions handed down and penalties imposed against the perpetrators of these crimes. It also requested it to provide information on the progress made regarding the adoption of the draft bill against trafficking in persons.

The Committee notes in the Government's report the activities carried out by the National Office against Organized Crime and the Funding of Terrorism (ONCDOFT) relating to the prevention of trafficking in persons and smuggling of migrants. Several awareness-raising activities have been carried out in communities and public education institutions at the national level, as well as activities to disseminate information on organized crime and its risks.

The Committee notes that the draft bill against trafficking in persons has not yet been adopted. However, the Government states that sections 41 and 42 of the Act of 2012 against organized crime and the funding of terrorism strengthened the penalties for violations to the sale and trafficking of children and young persons for forced labour or sexual exploitation, and the illegal transport of persons within and outside the country.

In addition, the Committee takes note of the statistics provided by ONCDOFT on judicial proceedings brought against the perpetrators of trafficking in persons between 2015 and 2018. In 2015, 24 persons were prosecuted (13 men and 11 women); in 2016, 46 persons were prosecuted (22 men and 24 women); in 2017, 32 persons were prosecuted (12 men and 20 women) and lastly, in 2018, 131 persons were prosecuted (63 men and 68 women). The Committee notes that the data provided do not indicate whether any of these prosecutions concern children under 18 years of age. ***The Committee requests the Government to continue to provide information on the adoption process of the draft bill against trafficking in persons. The Committee once again requests the Government to supply detailed information on the complaints filed, convictions handed down and penalties imposed under sections 41 and 42 of the Act against organized crime, indicating those cases involving victims below 18 years of age. As far as possible, this information should be disaggregated by age and gender.***

*Article 7(2). Effective and time-bound measures. Clauses (a) and (b). Preventing the engagement of children in, and removing children from, the worst forms of child labour, and ensuring their rehabilitation and social integration. Trafficking and commercial sexual exploitation.* In its previous comments, the Committee requested the Government to take effective measures to remove children from trafficking and sexual exploitation and ensure their rehabilitation and social integration. It requested the Government to provide information on the results achieved through the various plans which had been implemented and on the number of child victims of trafficking and sexual exploitation who had been the beneficiaries of these measures.

The Committee takes note, according to the Government's report, that public servants have participated in a workshop on criminal investigations into cases of trafficking in persons, focused on the prevention of migrant trafficking and smuggling, early detection of potential victims, identification of traffickers, recording of information gathered, an appropriate criminal investigation process and the distinction between trafficking in persons and smuggling of migrants. A national network against organized crime and funding of terrorism has been developed by the Government, represented in each province of the country. This network is organized into 24 coordination units which carry out prevention activities and

coordinate the various national competent entities regarding operations for the monitoring, repression and follow-up of crimes of trafficking in persons and migrant smuggling. In 2018, the Government also provided training and capacity-building for public servants at key border control locations. This training course, entitled “Border Trafficking Route”, focuses on preventive measures and the implementation of control mechanisms to combat trafficking in persons and smuggling of migrants, and on the identification of potential victims and support measures for them.

The Committee also notes that the Office of the Ombudsman, together with UNICEF, has renewed the national training plan on the rights of trafficking victims, especially women, children and young persons. The implementation of this plan falls within the mandate of the Office of the Ombudsman to promote, defend and monitor human rights, and involves the participation of all institutional bodies in the country devoted to the issue of trafficking in persons and smuggling of migrants.

Further, the Committee notes that under the national system of guidance for the comprehensive protection of children and young persons, within the framework of the 2015 Act on the protection of children and young persons (section 117), programmes are implemented for the rehabilitation of children and young persons who are victims of exploitation or abuse. Prevention programmes are also in place to prevent children and young persons from being subjected to such exploitive situations.

The Committee notes, from the Government’s report, the current revision by ONCDOFT of the protocol for assistance to victims of trafficking. While noting the various actions undertaken by the Government to combat trafficking and sexual exploitation for commercial purposes, the Committee once again expresses its *regret* at the lack of information provided by the Government on the results achieved by these programmes. ***The Committee once again requests the Government to provide information on the results achieved through the various plans that have been implemented and on the number of child victims of trafficking and sexual exploitation who have been the beneficiaries of these measures. The Committee also requests the government to supply information on the ONCDOFT protocol for assistance to victims of trafficking, once it has been revised.***

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

## Viet Nam

### ***Minimum Age Convention, 1973 (No. 138) (ratification: 2003)***

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

*Article 9(1) of the Convention. Penalties, labour inspectorate and application of the Convention in practice.* The Committee previously noted the Government’s information that Decree No. 91/2011/ND-CP of 17 October 2011 provides for new penalties of fines for various cases of child labour, aimed at deterring the use of child labour in the country, including employing children in massage rooms, in casinos, bars, pubs or places that risk adversely affecting the development of the child, and employing children in certain illicit activities, such as the transport of illegal commodities. The Committee also noted the Government’s information regarding the statistics on the employment of children and young persons, extracted from the reports of the labour inspection services for 2006–10. According to these statistics, in total 1,715 underage workers were detected during this period. The Government indicated that the number of children subjected to heavy labour and in hazardous and dangerous conditions, while decreasing, was as high as 68,000 in 2005 and 25,000 in 2010. The Committee further noted that according to the joint ILO, UNICEF and World Bank report on Understanding Children’s Work (UCW) in Viet Nam of April 2009, an estimated 1.3 million children between the ages of 6 and 17 years were involved in child labour.

The Committee notes the Government’s information that, in 2013, two decrees were issued to strengthen the sanctioning of administrative violations of child labour and juvenile labour, including cases of child labour abuse and using child for certain illicit activities. Moreover, section 296 of the Penal Code of 2015 provides for criminal liability for violations of the law on the employment of workers under 16 years of age, with sanctions of fines, community service and imprisonment of up to 10 years.

The Committee also notes the Government’s information that, in 2012–14, with the support of the ILO, the Ministry of Labour, Invalids and Social Affairs (MOLISA) developed and distributed 1,000 sets of training materials on child labour, and organized two training courses on these materials in the provinces of Ninh Binh and Dong Nai. The labour inspectorate also undertook measures to mainstream child labour in their professional trainings. The Government indicates that, in 2015, the labour inspectorate carried out inspections on compliance with regulations on minor workers in 117 enterprises, involving 88,469 workers. No children under 15 years were found employed. Eighty-six minor workers aged 16–18 were found working mainly in the producing and tracing of apparels and seafood processing, 11 of which had not been documented for health examinations. No other violations regarding child labour were found.

However, the Committee notes that, according to the report of Vietnam National Child Labour Survey of 2012, around 1.75 million working children were categorized as “child labourers”, accounting for 9.6 per cent of the national child population (5–17 years). Among children involved in child labour, 67 per cent worked in agriculture, 16.7 per cent worked in services and 15.7 worked in industry and construction. A significant number of working children operated in open-air workplaces that demanded great mobility and exposed children to activities with high accident risks, extreme temperatures and toxic environments which could inflict injuries and damage children’s physical development. The Committee further notes that the Government is in the process of preparing the second National Survey on Child Labour.

The Committee takes due note of the Government’s information regarding the measures taken, both in law and in practice, to combat child labour. However, it notes with *concern* that a significant number of children are engaged in child labour in Viet Nam, including in hazardous work and this number appears to be increasing. Moreover, the Committee observes that the results of the labour inspection activities do not reflect the magnitude of child labour in Viet Nam, as indicated in the report of Viet Nam National Child Labour Survey of 2012. ***The Committee therefore urges the Government to intensify its efforts to ensure the***

*effective elimination of child labour. It also urges the Government to take the necessary measures to strengthen the capacity and expand the reach of the labour inspectorate in its action to prevent and combat child labour, in particular in the informal economy and to provide information on the measures taken in this regard. Lastly, the Committee requests the Government to continue to provide information on the manner in which the Convention is applied in practice, including statistics provided by the National Child Labour Survey on the employment of children under 15 years of age, extracts from the reports of the inspection services and court decisions, as well as information on the number and nature of the violations reported and the sanctions imposed.*

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: 2000)**

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

*Articles 3(b) and 7(2)(b) of the Convention. Use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; effective and time-bound measures to provide assistance for the removal of children in the worst forms of child labour and for their rehabilitation and social integration.* In its previous comments, the Committee noted the adoption of the Programme of Action to Combat Prostitution (PACP) for the period 2011–15. The Committee also noted that the Committee on the Rights of the Child (CRC) expressed its concern about the increasing number of children involved in commercial sexual activity, mainly due to poverty-related reasons. The CRC further expressed its concern that children who were sexually exploited were likely to be treated as criminals by the police, and that there was a lack of specific child-friendly reporting procedures. The Committee therefore urged the Government to intensify its efforts within the framework of the PACP to combat child prostitution, and to take effective and time-bound measures to remove children under 18 years of age from prostitution and provide them with the appropriate assistance.

The Committee notes the Government's information in its report on the implementation of the PACP 2011–15, including the adoption of several decrees and circulars regarding the protection of victims of trafficking, as well as on the measures taken to strengthen the work of child protection and care services. However, the Committee notes that no concrete information on specific measures targeting child prostitution is provided in the Government's report. The Committee also notes that, pursuant to section 147 of the 2015 Criminal Code, only persuading, enticing and forcing a person under 16 years of age to participate in a pornographic performance constitutes an offence, which is punishable by imprisonment of up to 12 years. The Committee observes that the provisions of the 2015 Criminal Code do not appear to prohibit the use, procuring or offering of a child aged 16–18 for the production of pornography or for pornographic performances. The Committee reminds the Government that, by virtue of *Article 3(b)* of the Convention, the use, procuring or offering of a child under 18 years for the production of pornography or for pornographic performances, is considered as one of the worst forms of child labour, and that under the terms of *Article 1* of the Convention, immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour shall be taken as a matter of urgency. *The Committee therefore urges the Government to take the necessary measures to ensure that the use, procuring or offering of a child under 18 years for the production of pornography or for pornographic performances is prohibited, and to provide information on any progress made in this regard. The Committee also requests the Government to provide information on the targeted measures undertaken to combat the commercial sexual exploitation of children under 18 years of age, as well as on the results achieved. The Committee further requests the Government to provide concrete information on the effective and time-bound measures taken to remove children from commercial sexual exploitation and to provide them with the appropriate assistance for their social integration through education, vocational training or jobs.*

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.*

## **Yemen**

### **Minimum Age Convention, 1973 (No. 138) (ratification: 2000)**

The Committee notes the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country.

*Article 1 of the Convention. National policy designed to ensure the effective abolition of child labour and practical application of the Convention.* In its previous comments, the Committee noted the various initiatives, policies and measures adopted by the Government, in cooperation with the ILO, employers, workers and civil society organizations, to combat child labour. However, the Committee noted from an ILO survey that more than 1.3 million children between the ages of 5 and 17 were involved in child labour. It further noted from the Yemen Humanitarian Situation Report of March 2017 that more than 9.6 million children were affected by armed conflict in the country with over 1.6 million children who were internally displaced. Noting with deep concern at the large number of children below the minimum age for admission to employment or work who are involved in child labour, the Committee urged the Government to take immediate and effective measures to improve the situation of children in Yemen and to protect and prevent them from child labour, including through the adoption of the national action plan to combat child labour.

The Committee welcomes the information provided by the Government representative, during the discussion at the 108th Session of the Conference Committee on the Application of Standards in June 2019, concerning the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), by Yemen that it has adopted an Action Plan, 2019–26 to combat child labour. The objectives of this Action Plan include: (i) to prevent child labour and protect children; (ii) to ensure social protection to children who end up in the labour market; (iii) to ensure that the monitoring bodies are better able to intervene in cases of child labour; (iv) to increase vocational training; (v) to undertake a study on child labour; and (vi) to adopt a national policy against child labour. The Committee also notes the Government's information in its report that, in

cooperation with UNICEF, it is implementing a project for the care and rehabilitation of vulnerable children affected by the conflict as well as a national child protection plan, which contain social protection measures for children. It also notes the Government's information that an estimated 9,941 vulnerable children have benefited from the care and rehabilitation project. Moreover, a National Protection Committee, chaired by the Minister of Social Affairs and Labour and comprising representatives from various governmental bodies and relevant international organizations, has been established. The National Protection Committee provides an effective forum for discussion and exchange of views in order to stimulate cooperation in the fields of social protection, including child protection.

The Committee notes the Government's statement that the consequences of the conflict have extended to child labour. It also notes the Government's reference to the UNICEF report, which states that the worsening economic situation and loss of source of income by many families has resulted in around 2 million children dropping out of school to enter the labour market. It is anticipated that the crisis will have the effect of increasing the scale of child labour and an estimated between 1–3 three million children will have no social protection and will be vulnerable to numerous forms of exploitation. In this regard, the Committee notes from the UNICEF Humanitarian Situation Report of Yemen of June 2019 that an estimated 12.3 million children are in need of humanitarian assistance in the country. While acknowledging the difficult situation prevailing in the country, the Committee must express its *deep concern* at the situation of children in the country wherein a high number of children are involved in child labour and who are vulnerable to such exploitation. ***While acknowledging the complexity of the situation prevailing on the ground and the presence of armed conflict in the country, the Committee urges the Government to intensify its efforts to improve the situation of children in Yemen and to protect and prevent them from child labour. It requests the Government to provide information on the measures taken in this regard, including the measures taken within the framework of the Action Plan 2019–26, and the results achieved. The Committee further requests the Government to continue to provide information on the manner in which the Convention is applied in practice, including statistical data on the employment of children and young persons.***

*Article 6. Minimum age for admission to apprenticeship.* In its previous comments, the Committee expressed the firm hope that the draft Labour Code which contains provisions setting a minimum age of 14 years for apprenticeship and the Ministerial Order No. 11 which would be amended to set a minimum age of 14 years for apprenticeship, would be adopted soon.

The Committee notes from the Government's report that the draft Labour Code and the Ministerial Order No. 11 has not been adopted. ***The Committee therefore requests the Government to take the necessary measures to ensure that the provisions under the draft Labour Code and the Ministerial Order No. 11, which establish a minimum age of 14 years for apprenticeship, will be adopted without delay. 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: 2000)***

The Committee notes the complexity of the situation prevailing on the ground and the presence of armed groups and armed conflict in the country.

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 Government's report and 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 Yemen of the Convention.

### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)***

*Article 3(a) of the Convention. All forms of slavery or practices similar to slavery. Compulsory recruitment of children for armed conflict.* In its previous comments, the Committee noted the Government's information that in 2012, a Presidential Decree prohibiting the recruitment of children in the armed forces was adopted. It also noted the Government's statement that the action plan to put an end to the recruitment and use of children by the armed forces, which was concluded in 2014 with the Special Representative of the United Nations Secretary-General for Children and Armed Conflict, was hindered due to the worsening of the armed conflict since 2015. The Committee further noted from the UNICEF report entitled *Falling through Cracks: The Children of Yemen, March 2017* that at least 1,572 boys were recruited and used in the conflict, 1,546 children were killed and 2,458 children were maimed. Moreover, the Report of the Ministry of Human Rights, 2018, reported an increasing number of conscripted children, about 15,000, by the Houthi militias and their methods of mobilizing these children to fight on front lines. According to the report, children recruited by this group were forced to use psychotropic substances and drugs and had been used to penetrate the Saudi borders. They were also trained to use heavy weapons, to lay landmines and explosives and were used as human shields. The Committee deeply deplored the use of children in armed conflict and strongly urged the Government to take the necessary measures 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 notes the observations of the IOE that the situation of children in Yemen is of concern, due to the involvement and recruitment of children in armed conflict. The Committee also notes that the ITUC, in its observations,

states that due to the intensification of the conflict in 2015, the action plan developed in 2014 and the 2012 Presidential Decree banning child recruitment in armed conflict remain moot.

The Committee notes that the Conference Committee, in its conclusions, urged the Government to implement the action plan of 2014 to end the recruitment of children by armed forces.

The Committee notes the Government's information in its report that it is in the process of concluding an agreement with the ILO Regional Office for Arab States in Beirut to implement a two-year project designed to prevent the recruitment and exploitation of children in armed conflict. This project will target 300 children in the three governorates of Sanaa, Lahij and Hajjah. The Committee notes, however, from the Report of the UN Secretary-General on Children and Armed Conflict, June 2019 (A/73/907-S/2019/509) that in 2018, the United Nations verified the recruitment and use of 370 children with the majority recruitment attributed to Houthis (170) and Yemeni Government forces (111). Of the total number, at least 50 per cent of the children were below 15 years and 37 per cent of them were used in active combat. For the first time the United Nations verified the recruitment and use of 16 girls between the ages of 15 and 17 by the Houthis. It also notes that the Secretary-General expressed concern at the violations against children committed by the armed groups, particularly the persistently high levels of recruitment and use, maiming and killing and denial of humanitarian access to children. The Committee further notes from the Report of the Secretary-General that a road map was endorsed by the Government in 2018 to expedite the implementation of the 2014 action plan to end and prevent the recruitment and use of children and to call for the immediate release of all children from its ranks. 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 forces and at the current situation of children affected by armed conflict in Yemen, 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 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 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 of children under 18 years of age into armed forces and groups, including through the effective implementation of the national action plan to put an end to the recruitment and use of children in armed conflict, 2014. It also urges the Government to take immediate and effective measures to ensure that thorough investigations and prosecutions of all persons 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. 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.* In its previous comments, the Committee noted from the UNESCO Institute for Statistics, that the net school enrolment rates in Yemen was low with 76 per cent (82 per cent boys and 69 per cent girls) in primary education and 40 per cent (48 per cent boys and 31 per cent girls) in secondary education. It also noted from the UNICEF Yemen Situation report that according to the findings of the Out-of-School Children Survey conducted by UNICEF in Al Dhale governorate, 78 per cent of the 4,553 children who dropped out of school were girls. The Committee accordingly urged 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, especially girls, by increasing the school enrolment rates at the primary and secondary levels and by decreasing their drop-out rates.

The Committee notes the observations made by the IOE that the widespread conflict and the risk of attacks on schools as well as the recruitment or abduction of children for combat purposes all play a significant role in separating children from their right to a basic education free from interference or harm. The Committee notes that the Conference Committee, in its conclusions, urged the Government to take all necessary measures to ensure equal access to free basic education for all children of school age.

The Committee notes the Government's reference to various sector-based strategies formulated to develop education in order to meet its obligations under the 2000 Dakar Framework for Action of Education for All and Millennium Development Goals. The Committee notes, however, that except for the Strategic Vision 2025, all the strategies indicated have been outdated. The Government also states that measures to implement strategies to develop education are under way. The Committee notes the Government's statement in its report under the Minimum Age Convention, 1973 (No. 138), that as a result of the various measures taken by the Government, the school enrolment rates at primary and secondary level have increased substantially. Moreover, measures have been taken to repair damaged schools in liberated areas and to provide the necessary means to ensure continuity of education. In this regard, the Committee notes from the UNICEF Humanitarian Situation Report of Yemen that during the first half of 2019, UNICEF's Education Programme have supported the construction of 97 semi-permanent classrooms in 33 schools which provide alternative learning opportunities to 18,159 internally displaced children; completed the rehabilitation of 13 affected schools; provided 21,891 new student desks in 500 schools; and provided school bags and other essential materials to 15,251 children to support and encourage access and reduce economic barriers to schooling. However, the Committee notes from the UNICEF report of March 2018, that since the escalation of conflict in 2015, more than 2,500 schools are out of use with two-thirds damaged by attacks, 27 per cent closed and 7 per cent used for military purposes or as shelters for displaced people. Furthermore, the Committee notes the Government's admission that many problems prevent the Government from carrying out its educational development policies, such as the population dispersal, the difficult economic and social circumstances, the prevalence of certain customs

and traditions, including the early marriage of girls, high levels of vulnerability, poverty and the ongoing war in the country. The Committee notes from the UNICEF report of March 2019 that out of seven million school-aged children, over two million children are already out of school. While noting the measures taken by the Government, the Committee must once again express its *deep concern* at the large number of children who are deprived of access to education because of the climate of insecurity prevailing in the country. ***Considering that education is key in preventing children from being engaged in the worst forms of child labour, the Committee once again 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, especially girls, by increasing the school enrolment and attendance rates at the primary and secondary levels and by decreasing their drop-out rates. It requests the Government to continue to provide information on the measures taken in this regard and on the results achieved.***

*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 in armed conflict.* In its previous comments, the Committee noted from the Report of the Ministry of Human Rights, 2018, that workshops and civil society campaigns on the rehabilitation of children withdrawn from armed conflict were carried out and rehabilitation centres were opened for such children. Hundreds of children recruited by militias were released and provided with medical care. This report further indicated that the Government of Yemen, in cooperation with the Arab Coalition and the International Committee of the Red Cross and UNICEF, received 89 children who were recruited by the Houthi militia and deployed along the borders, out of which 39 children were rehabilitated and returned to their families. The Committee urged the Government to continue to take effective and time-bound measures to ensure that children removed from armed groups and forces receive adequate assistance for their rehabilitation and social integration.

The Committee notes that in its conclusions, the Conference Committee urged the Government to provide information and statistics on the number of children engaged in armed conflict, the number of those liberated and provided with rehabilitation and reintegration services.

The Committee notes the Government's information that at present there are no data and information on the number of children released from military camps and rehabilitated and reintegrated in the community. However, the Government indicates that a database on affected children and the services provided to them will be launched in cooperation with UNICEF. ***The Committee expresses the firm hope that the Government will take the necessary measures, without delay, to ensure the establishment of the database relating to the number of children withdrawn from armed conflict, rehabilitated and reintegrated to the community. It requests the Government to provide information on any progress made in this regard as well as on the information on the number of children who have been withdrawn and rehabilitated. The Committee further requests the Government to provide information on the effective and time-bound measures taken to remove children from armed groups and forces and to provide adequate assistance for their rehabilitation and social integration, including reintegration into the school system, vocational training, or alternative learning opportunities wherever possible and appropriate.***

2. *Abandoned and street children.* The Committee notes that the Government representative of Yemen, during the discussion at the Conference Committee, stated that the country faces several challenges and one of those being the increasing number of abandoned children and children begging. ***The Committee urges the Government to take effective and time-bound measures to protect abandoned children and child beggars from being engaged in the worst forms of child labour and to provide them with the appropriate assistance and services for their rehabilitation and reintegration. 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.

## Zambia

### **Minimum Age Convention, 1973 (No. 138) (ratification: 1976)**

*Article 2(3) of the Convention. Age of completion of compulsory schooling.* In its previous comments, the Committee noted that the Education Act of 2011 neither defined the school-going age nor indicated the age of completion of compulsory schooling. It also noted that according to section 34 of the Education Act of 2011, the Minister may, by statutory instrument, make regulations to provide for the basic school-going age and age for compulsory attendance at educational institutions. The Committee noted the Government representative's indication to the Conference Committee in 2017, that consultations were ongoing to revise the Education Act of 2011 which would define the basic school-going age and link it with the minimum age for employment in Zambia. It also noted that the Conference Committee recommended the Government to take the necessary measures to ensure that the amended Education Act sets the age of completion of compulsory education at 15 years of age, and that it is effectively implemented in practice, without delay. In this regard, the Committee noted the Government's statement that the official entry age for grade 1 in Zambia is 7 years and by the time of completion of grade 7, children are 14 or 15 years old. The Government further indicated that education is not compulsory, but once a child is enrolled in a school, it is the duty of every parent or guardian to ensure the child's regular attendance according to section 6(1) of the School (Compulsory Attendance) Regulations Statutory Instrument (SI) No. 118 of 1970. The Committee further noted the Government's reference to the various measures taken to improve access to basic education and which resulted in significant progress in the area of education. However, it noted the Government's statement that

despite 15 years of concerted action, access to education remained a huge challenge for children in Zambia and that the proposed revision of the Education Act had been delayed due to some technical challenges. The Committee strongly urged the Government to take the necessary steps to ensure free and compulsory education for all children up to the minimum age of 15 years and to set the age of completion of compulsory education at 15 years during the revision of the Education Act.

The Committee notes the Government's information in its report that it continues to pursue programmes and policies concerning compulsory schooling and access to education. However, the Committee notes with *regret* that there is no information in the Government's report with regard to the revision of the Education Act which proposes to set the age of completion of compulsory education at 15. ***Considering that compulsory education is one of the most effective means of combating child labour, the Committee strongly urges the Government to take the necessary steps to ensure free and compulsory education for all children up to 15 years which is the minimum age of 15 years for admission to employment or work, including by legally setting 15 years as the age of completion of compulsory education during the revision of the Education Act. It requests the Government to provide information on any progress made in this regard.***

*Article 7(3) of the Convention. Determination of light work.* The Committee previously noted that the SI No. 121 of 2013 defines "light work" which is permitted to children aged between 13 and 15 years as per section 4A(2) of the Employment of Young Persons and Children (Amendment) (EYPC Act of 2004) as work which is not likely: (a) to be harmful to the health or development of a child or young person; and (b) to prejudice the attendance at school, participation on vocational orientation, or a training programme approved by the competent authority, of a child or young person. It also noted that section 2 of the SI restricts the performance of light work activities to less than three hours per day. The Committee noted, however, that the United Nations Committee on the Rights of the Child, in its concluding observations of 14 March 2016, expressed concern that children aged 13 to 15 years undertook work which is reportedly not light work and that it interfered with their education (CRC/C/ZMB/CO/2-4, paragraph 57). It requested the Government take the necessary measures to ensure that children of 13 to 15 years of age do not participate in work other than light work and to indicate whether the light work activities have been determined pursuant to section 4A(2) of the EYPC Act of 2004 as required under *Article 7(3) of the Convention.*

The Committee notes the Government's information that light work activities have not been determined. However, child labour clubs in schools accompanied by sensitization programmes in the communities has endeavoured to ensure that light work activities are identified. The Committee notes that the Government adopted the Employment Code Act No. 3 of 2019, which repeals Employment of Young Persons and Children Act. It notes that according to section 80 of Act No. 3 of 2019, light work means work that the Minister may, by statutory instrument, prescribe to be light work. Further, section 137(n) states that the Minister may, by statutory instrument, make regulations prescribing the ages at which children (under 15 years) and young persons may be employed in particular trades or occupations. ***The Committee requests the Government to indicate the measures taken or envisaged to determine light work activities permitted to children of 13 to 15 years of age pursuant to sections 80 and 137(n) of the Employment Code No. 3 of 2019. It also requests the Government to intensify its efforts to ensure that children of 13 to 15 years of age do not participate in work other than light work which does not interfere with their education.***

*Labour inspectorate.* The Committee previously noted that the inspections carried out by the labour inspectors identified the existence of hazardous child labour in small-scale mining, agriculture, domestic work, and trading sectors, generally in the informal economy. It also noted the various measures, including sensitization and awareness raising measures on child labour as well as training on monitoring and identification of child labour taken by the District Child Labour Committees (DCLCs); the measures undertaken within the framework of the Achieving Reduction of Child Labour in support of Education programme (ARISE) and the results achieved; as well as the measures taken by the Government to boost the labour inspectorate to enhance the enforcement of child labour laws. The Committee, however, noted that the DCLCs' activities were restricted to limited districts due to lack of financial resources and that the National Steering Committee (NSC), which monitors and develops policies on child labour and coordinates the activities and programmes to eliminate child labour, including the activities of the DCLCs, did not cover informal sectors where child labour is more prevalent. The Committee requested the Government to continue its efforts to prevent children under the age of 15 years from engaging in child labour as well as to take the necessary measures to strengthen and expand the activities of the DCLCs to all the provinces and to strengthen the capacities of the labour inspectorate to enable it to monitor child labour in all sectors, including the informal economy.

The Committee notes the Government's information that the DCLCs are working with other stakeholders to sensitize, monitor and identify victims of child labour while the NSC monitors the prevalence of child labour based on the reports submitted by the DCLCs and other social partners. Regarding the activities undertaken by the DCLCs, the Government indicates that in the Western Province Koama and Nkeyema the DCLC: (i) conducted a radio programme on child labour on the World Day Against Child Labour; (ii) undertook an integrated Area-based Approach in its fight against child labour; (iii) sensitized over 2000 households through Social Cash Transfer Programmes and linked over 516 vulnerable households to this programme; and (iv) withdrew 48 children from child labour from different communities and linked them to the Social Welfare for Education support. Moreover, in Chipata, Eastern Province, the DCLC: (i) conducted 12 radio programmes in which information affecting children were shared by various DCLC stakeholders; (ii) distributed brochures, and copies of the list of hazardous types of work prohibited to children as well as copies of the Employment of Young Persons Act to 12 communities where child labour activities are carried out; and (iii) carried out child labour sensitization

activities in schools and market places. Furthermore, the DCLC along with the NSC conducted 38 child labour inspections in tobacco farm blocks. Noting that most of the children who were working on the farms came from communities without schools and vulnerable communities, the DCLC recommended that they benefit from the social cash transfer programmes. ***The Committee strongly encourages the Government to continue to take the necessary measures to strengthen and expand the activities of the DCLCs and the NSC as well as to strengthen the capacities of the labour inspectorate to enable them to monitor child labour in all sectors, including the informal economy. It requests the Government to continue to provide specific information on the measures taken in this regard, as well as on the results achieved. Finally, the Committee requests the Government to provide updated statistical data on the employment of children and young persons, together with extracts from labour inspection reports.***

*Application of the Convention in practice.* The Committee notes the Government's information that *Making Schools the Place to be*, an initiative under the ARISE programme has helped reduce school absenteeism, stimulate higher levels of education and prevent child labour. Under this initiative, seven primary schools are implementing the Sustainable School Meals Programme and 142 community members are involved in this programme; 525 children received school supplies and uniforms; and 30 schools received learning materials. Moreover, 3,293 vulnerable households benefited through the Improved Household Income initiative under the ARISE programme. The Committee further notes the Government's information that the Labour Force Survey of 2018 contains data on child labour. However, the Committee notes that in the survey, the labour force statistics are classified by age starting from 15 years and older and do not particularly cover child labour.

The Committee further notes that the document on the Zambia–United Nations Sustainable Development Partnership Framework (2016–21) refers to the prevalence of widespread child labour in Zambia, with an estimated 1.3 million children, aged 5–14 years, involved in child labour and an estimated 1.4 million working children aged 5–17 years involved in hazardous forms of work. In this regard, the Committee notes the Government's statement in its report under the Worst Forms of Child Labour Convention, 1999 (No. 182), that the practical difficulties encountered in the application of the Convention mainly hinges on cultural beliefs and practices that have continued to hamper the fight against child labour. Moreover, inadequate staff and resources also pose certain operational challenges in the fight against child labour. 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, including in hazardous work. ***The Committee therefore urges the Government to intensify its efforts to ensure that children under the age of 15 years are not engaged in child labour in Zambia. The Committee also requests the Government to provide information on the application in practice of the provisions giving effect to the Convention, in particular the SI No. 121 of 2013 and the Employment Code No. 3 of 2019, including statistics on the number and nature of violations reported and penalties imposed.***

### **Worst Forms of Child Labour Convention, 1999 (No. 182) (ratification: 2001)**

*Articles 3(a), 5 and 7(1) of the Convention.* *Sale and trafficking of children, monitoring mechanisms and sanctions.* In its previous comments, the Committee noted the activities implemented within the framework of the Joint Programme under the International Organization for Migration's (IOM) Counter Trafficking Assistance Programme including: the reinforcement of the capacities of law enforcement and civil society to operationalize the Anti-Trafficking Law of 2008; development of a standard operating procedure for law enforcement in handling cases related to trafficking in persons; and provision for direct assistance, repatriation and reintegration assistance to victims of trafficking. It also noted the Government's statement that financial constraints, lack of technical knowledge, lack of vehicles to conduct investigations and corruption by government officials are real impediments to the fight against trafficking in persons. The Government further indicated that the internal trafficking of children for domestic work, work in mining and agriculture and sexual exploitation, were common in the country and that children from poor households, as well as orphans and street children were particularly vulnerable to trafficking. The Committee requested the Government to strengthen the capacity of the law enforcement officials and provide the appropriate funds for their effective functioning.

The Committee notes the detailed information provided by the Government in its report under the Forced Labour Convention, 1930 (No. 29), on the various initiatives undertaken by the Government to combat trafficking in persons. According to this information, the Government through the National Prosecution Authority (NPA), has taken great strides in building the capacities of the law enforcement officers and prosecutors through various training programmes facilitated by the United Nations Office on Drugs and Crime. The NPA has also intensified its cooperation and partnerships with regional bodies, such as the Conference for Western Attorney's General African Partnership (CWAG–AAP), African Prosecutors Association (APA) and other national and international organizations by organizing trainings on prosecution and investigation of human trafficking as well as workshops and seminars which enhance awareness, knowledge and skills required to combat trafficking in persons. The Government further indicates that the National Committee and the National Secretariat on Human Trafficking is the designated body that coordinates the overall application of the Anti-Human Trafficking Act of 2008, including reporting the activities undertaken by the NPA, gathering statistical data on cases related to trafficking in persons and presenting before the National Inter-Ministerial Committee, providing guidance to the prosecution on cases related to trafficking in persons, as well as ensuring protection to victims of trafficking. Moreover, the Government states that currently there are six places of safety in six districts which provide protection to victims of trafficking and it is envisaged that one such place of safety be established in other districts. The Committee finally notes the Government's information that, the Government with support from the IOM and other stakeholders and Civil Society

Organizations, have developed the Best Interest Determination Guidelines for the Protection of Migrant Children, who are the most vulnerable to exploitation. The Committee, however, notes from the Communication Strategy on Mixed Migration and Human Trafficking in Zambia “Know Before You Go”, 2017–18, a document published by IOM, that internal trafficking, mainly of women and children from rural to urban areas for domestic servitude and sexual exploitation, remains a challenge and likely the dominant form of trafficking in Zambia. ***The Committee therefore urges the Government to take the necessary measures to ensure that thorough investigations and robust prosecutions of persons who traffic in children for the purpose of labour and sexual exploitation are carried out and that sufficiently effective penalties are imposed in practice. It requests the Government to provide statistical information on 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 also requests the Government to provide information on the number of children who have been protected from trafficking following the implementation of the Best Interest Determination Guidelines for the Protection of Migrant Children.***

*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 taken by the Government to improve the school enrolment and attendance rates and the positive results achieved. However, it noted that the United Nations Committee on the Rights of the Child, in its concluding observations of 14 March 2016, expressed concern that girls were dropping out of school due to early marriage, teenage pregnancy and discriminatory traditional and cultural practices, especially in rural areas (CRC/C/ZMB/CO/2–4, paragraph 53). The Committee therefore requested the Government to continue taking effective measures to improve the functioning of the education system, including by increasing the school enrolment rates and reducing school drop-out rates, particularly of girls in rural areas.

The Committee notes the Government’s information that the Education and Skills Sector Plan 2017–21 (ESSP) is a key measure to improve the functioning of the education system in the country. The ESSP aims to achieve improved learning outcomes as well as overcoming system inefficiencies in order to achieve the vision of “Quality and relevant lifelong education and skills training for all”. The Committee also notes the Government’s statement that the Free Primary Education Policy, the growing number of community schools, upgrading of primary schools to secondary schools and construction of more secondary schools have all led to an increase in the total number of pupils at school. Accordingly, the Committee notes with *interest* that as per the Educational Statistical Bulletin of 2017, the number of pupils in primary and secondary schools have increased from 3,879,437 to 4,139,390 between 2012 and 2017. The Government further states that the rate of enrolment of girls have increased by 3.3 per cent from 2016 to 2017 owing to the “Support More Girls” initiative under the Orphaned and Vulnerable Children Bursary Scheme. The Government also refer to a decrease in the school drop-out rates in 2017 by 1.5 per cent for grades 1–7 and 1.0 per cent for grades 8–12. The Committee finally notes the Government’s information that this progression in girls’ education shall be sustained through implementing initiatives, such as “Keeping Girls in School”; Menstrual Hygiene Management at Schools; Comprehensive Sexuality Education; and the Re-entry policy which allows pregnant girls to get back to school after giving birth. ***The Committee strongly encourages the Government to continue taking effective measures to improve the functioning of the education system, including by increasing the school enrolment rates and reducing school drop-out rates, particularly of girls. It requests the Government to continue providing information on the measures taken in this regard, and on the results achieved.***

*Clause (d). Identifying and reaching out to children at special risk. Child orphans of HIV/AIDS and other vulnerable children (OVCs).* The Committee previously noted the social and educational assistance provided to children affected by HIV/AIDS and other vulnerable children through the Public Welfare Assistance Scheme and the Social Cash Transfer Scheme. The Committee also noted from the Zambia Country Report of 30 April 2015 to the United Nations General Assembly Special Session on AIDS (UNGASS report), that the school attendance among orphans and non-orphans aged 10–14 years was 87.8 per cent. The Committee further noted from the 2015 UNAIDS estimates, a decrease in the average number of children aged 0–17 years who were orphaned due to HIV/AIDS. The Committee urged the Government to continue to strengthen its efforts to protect children orphaned by HIV/AIDS and other vulnerable children from the worst forms of child labour.

The Committee notes the absence of information in the Government’s report on this matter. The Committee, however, notes from the 2017 Labour Force Survey (LFS) Report that the Public Welfare Assistance Programme and the Social Cash Transfer Programme have benefitted a total of 24,465 and 127,453 households, respectively. The LFS report further indicates that the Orphans and Vulnerable Children Bursary, which aims to improve retention, progression and completion rates for vulnerable children at secondary education levels, has benefited a total of 17,415 households. However, the Committee notes that according to the 2018 UNAIDS Country Factsheets of Zambia, an average of 470,000 children aged 0–17 years are orphans due to AIDS in Zambia. ***Considering that children orphaned by HIV/AIDS and other vulnerable children are at an increased risk of being engaged in the worst forms of child labour, the Committee urges the Government to continue to strengthen its efforts to protect such children from these worst forms. It requests the Government to continue providing information on the measures taken in this regard and the results achieved.***

The Committee is raising other points 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. 5** (*Saint Lucia*); **Convention No. 6** (*Portugal*); **Convention No. 59** (*Paraguay*); **Convention No. 77** (*Haiti, Paraguay, Peru, Spain*); **Convention No. 78** (*Haiti, Paraguay, Peru, Spain*); **Convention No. 79** (*Paraguay*); **Convention No. 90** (*Paraguay*); **Convention No. 123** (*Uganda*); **Convention No. 124** (*Kyrgyzstan, Uganda*); **Convention No. 138** (*Belize, Brunei Darussalam, Canada, Chad, Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Grenada, Guinea-Bissau, Haiti, Kenya, Lao People's Democratic Republic, Lebanon, Mauritania, Republic of Moldova, Namibia, Netherlands: Aruba, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Rwanda, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Sierra Leone, Solomon Islands, South Sudan, Sudan, Tajikistan, United Republic of Tanzania, Thailand, Tunisia, Turkmenistan, Uganda, Uruguay, Bolivarian Republic of Venezuela, Viet Nam, Yemen*); **Convention No. 182** (*Belize, Brunei Darussalam, Chad, Congo, Djibouti, Dominica, Equatorial Guinea, Gabon, Gambia, Ghana, Grenada, Guinea-Bissau, Guyana, Haiti, Iraq, Jamaica, Kenya, Lao People's Democratic Republic, Lebanon, Madagascar, Malawi, Mauritania, Mexico, Republic of Moldova, Mongolia, Namibia, Netherlands: Aruba, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Solomon Islands, Somalia, South Sudan, Spain, Sri Lanka, Sudan, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Thailand, Timor-Leste, Togo, Tunisia, Turkmenistan, Uganda, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Guernsey, Uruguay, Uzbekistan, Vanuatu, Bolivarian Republic of Venezuela, Viet Nam, Yemen, Zambia*).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 138** (*Barbados, Uzbekistan*); **Convention No. 182** (*Hungary, Romania, Singapore, Slovakia, Sweden*).



## Equality of opportunity and treatment

### General observation

#### **Workers with Family Responsibilities Convention, 1981 (No. 156)**

The Committee recognizes that in today's world, reconciling work and family responsibilities and more generally promoting a better work-life balance for *all* workers, irrespective of their sex, is essential to the achievement of gender equality and decent work. The Committee acknowledges that addressing these issues has become more urgent than ever before due to societal, demographic and organizational changes, including: (i) the increase in women's labour force participation and changes in the family structure; (ii) population growth combined with an ageing population and increasing care needs; and (iii) transformative changes in the world of work, particularly in work organization, driven by technological innovations.

The Committee also recognizes that the bulk of family responsibilities is generally carried out by women, and in some societies girls, who are subject to a double burden of both paid work and unpaid care work. In order to cope with the care demands, a higher proportion of women have to work in diverse forms of employment, such as part-time work, on-call work, casual jobs, or as own-account workers. These forms of employment negatively impact their income, with the International Labour Organization (ILO) estimating the gender pay gap to be 16–19 per cent, often based on this care divide (Global Wage Report, 2018–19). They also affect social security entitlements, with both gaps (in wages and in social security entitlements) leading to higher levels of poverty for women as compared to men throughout the life cycle. At the same time, men taking up, or wanting to take up, more family responsibilities are also encountering difficulties and obstacles in seeking to realize this aspiration, while simultaneously reconciling it with their obligations in relation to paid work.

Although the intensity of these changes might differ depending on the regions, the issues of work-life balance are relevant to all workers and have become a priority in both urban centers and rural areas across the globe. Considering these developments, the Committee draws attention to the relevance, importance and practical usefulness of the principles laid down in the Workers with Family Responsibilities Convention (No. 156), and its Recommendation (No. 165), 1981. The aim of these instruments is to ensure that all workers with family responsibilities – women as well as men – are not disadvantaged in relation to other workers and, in particular, that women with family responsibilities are not disadvantaged in comparison to men with family responsibilities. One of the essential components of the Convention lies in *Article 3(1)* that requires the adoption of a national policy on non-discrimination based on family responsibilities.

Implementation of Convention No. 156 is inextricably linked to the implementation of the principle of equality contained in the ILO Constitution, as well as the fundamental right to non-discrimination and equality of opportunity and treatment in employment and occupation set out in the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and the Equal Remuneration Convention, 1951 (No. 100). These principles are also incorporated in more general international human rights laws, such as the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Committee wishes to emphasize that measures to assist both men and women with reconciling work and family responsibilities are essential to promote gender equality in employment and occupation and to close the gender pay gap. The Committee also points out that, while the Convention builds on the rights and protections laid down in the ILO's Conventions on maternity protection, it is intended to encourage men to take up their family responsibilities and to enable men as well as women to reconcile those responsibilities and their work obligations.

The Committee notes that the Centenary Declaration for the Future of Work, adopted by the International Labour Conference in June 2019, commits the ILO to directing its efforts towards achieving gender equality, inter alia, through a transformative agenda with progress towards those goals regularly evaluated. In so doing, the Declaration emphasizes the importance of a more balanced sharing of family responsibilities and the attainment of a better work-life balance, as well as investing in the care economy, and ensuring that diverse forms of work arrangements, production and business models provide for decent work. At the same time, it calls for the development of adequate and sustainable social protection systems adapted to developments in the world of work. Gender equality and decent work for all, which are at the heart of the ILO's work and its Centenary Declaration, also comprise two of the 17 goals (goal 5 and goal 8) adopted by the international community in its 2030 Agenda for Sustainable Development to achieve its pledge "*to leave no one behind*".

Despite undoubted and marked progress having been made over the past 35 years since the adoption of Convention No. 156 and Recommendation No. 165, the Committee finds, following a review of the reports of the Governments and the observations of the social partners, that there are many gaps in the implementation of the Convention. The Committee intends this general observation, first, to promote full application in law and practice of the Convention and Recommendation and, in so doing to allow a better reporting on the application of the Convention under article 22 of the ILO Constitution; and, secondly, to stimulate awareness, understanding and use in all member States, at national, community and workplace levels of the principles and guidance set out in these instruments.

Observing that the absence of measures designed to achieve these objectives may lead to indirect sex discrimination, the Committee wishes also to note that at its 337th Session (October–November 2019), the Governing Body decided to select Convention No. 156 together with Convention No. 111 and the Maternity Protection Convention, 2000 (No. 183), as the subject of the 2021 General Survey to be prepared by the Committee of Experts, with a focus on the fundamental

principle of equality of opportunity and treatment between men and women workers. The Committee welcomes the choice made for the forthcoming General Survey and anticipates that it will be an opportunity to demonstrate the close link between these three instruments, in particular their crucial role in the achievement of gender equality. It hopes that this general observation will pave the way for renewed interest in Convention No. 156.

*Scope and national policy (Articles 1 to 3).* The Convention calls for the adoption of a national policy “to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities”. This national policy which is wide in scope and applies to all sectors of economic activity and all categories of workers, should be implemented through the adoption of a combination of specific legislative, administrative, policy or practical measures adapted to national conditions concerning employment participation and security, conditions of work, social security, and the provision of community services. The scope of the term “family responsibilities” is broad, covering responsibilities towards both “dependent children” and “other members of the immediate family who clearly need care and support”. Each ratifying State shall determine who comes within these two categories, without undermining the principle of equality.

In seeking specifically to protect all workers with family responsibilities from discrimination, the Convention defines discrimination in the same way as Articles 1 and 5 of Convention No. 111: that is, discrimination is “any exclusion, restriction or preference which has the effect of nullifying or impairing equality of opportunity and treatment in employment and occupation”, but not the adoption of “special measures of protection or assistance” that are needed to remedy the effects of past discriminatory practices and promote equality for all. The definition covers both direct and indirect discrimination. While recognizing that prohibitions of sex- or gender-based discrimination may sometimes provide important protection to women against the disproportionate impact on them of barriers arising from family responsibilities or stereotyped assumptions regarding family responsibility roles, the Committee has emphasized that such protection may fall short of meeting the objectives of Convention No. 156. Convention No. 111 also provides for the possibility to designate additional prohibited grounds of discrimination at the national level in consultation with representatives of workers’ and employers’ organizations. In that regard, the Committee welcomes the fact that an increasing number of countries are adding “family responsibilities” and/or “family situation” or more broadly “care responsibilities” as a prohibited ground of discrimination in labour policies and laws.

The Committee notes that a growing, though insufficient, number of countries have adopted national policies that explicitly address the needs of workers with family responsibilities. Some of the relevant measures are contained in gender equality policies or equal employment opportunity policies, and more recently, in specific work–life balance policies. However, the Committee has also noted a number of important shortcomings with regard to the adoption of national equality policies covering workers with family responsibilities. In some countries, certain categories of workers (such as domestic, migrant, or temporary workers) or sectors (such as workers in the informal economy or in the agriculture sector) are excluded from the national law and policies, and thus from the application of the Convention. In a number of countries, policies and specific measures, such as the entitlement to parental or family leave, protection against overtime and dismissal, or access to childcare facilities, continue to be directed only at women. Although certain targeted temporary “special measures” may still be taken to address the disadvantages faced by women workers with family responsibilities (such as measures directed at helping women re-entering employment after extended maternity and parental leave), the Committee stresses that the impact of such measures needs to be regularly monitored and restrictions and limitations should be removed as soon as possible. The Committee reiterates its view that when national policy, legislation, collective agreements or other measures reflect the assumption that the main responsibility for family care lies with women and so exclude men from the rights and benefits aimed at enabling reconciliation of work and family responsibilities, this reinforces traditional stereotypes and impedes the attainment of equality. The Committee underscores the importance of challenging traditional stereotypes of gender roles in caregiving, unpaid work and paid employment in order for families to be free to divide and share care-giving responsibilities regardless of gender and to allow them to reconcile those responsibilities with employment to the fullest extent possible. Thus, the Committee calls for the extension of measures adopted at the national and workplace levels enabling the reconciliation of work and family responsibilities also to apply to men.

*Social dialogue (Article 11).* The Committee wishes to highlight the value of social dialogue and collective bargaining in the implementation of the Convention. In this respect, the Committee notes the adoption of codes of good practice for companies and guides for collective bargaining which promote the adoption of concrete measures to enable better reconciliation of work and family life. The Committee hopes that employers’ and workers’ organizations will continue to participate in the design and implementation of national, sectoral and workplace policies and innovative measures to give effect to the rights in the Convention. The Committee stresses the important role that national mechanisms on gender equality, business associations, trade unions and other non-governmental associations can play in promoting the aims of the Convention through research, training, awareness-raising and exchange of lessons learned and good practices. Examples of such action it has noted, include such things as the establishment of a paternity website aimed at promoting equitable gender relations and men’s participation in care tasks, the setting up of a national task force on the integration of work and family life, and family-friendly company certification systems providing positive recognition to enterprises which adopt family friendly measures for their workers.

*Terms and conditions of employment and social security (Articles 4(b), 7 and 8).* The Convention calls for the adoption of measures to enable workers with family responsibilities to enter, remain integrated in and re-enter the labour force after a period of leave, and prohibits termination of employment based on family responsibilities. The Committee welcomes the fact that many member States have adopted legislation that protects employees against dismissal related to family responsibilities, such as through provisions on unlawful dismissal. The Committee observes the importance of extending the protection afforded by employment legislation, including renewal of contracts and prohibition of dismissal or non-renewal based on family responsibilities, to workers in diverse forms of employment, as it is often these workers who most need protection. The Committee further recalls the importance of taking into account not only persons who combine employment and care responsibilities, but also those who take time off to provide care and then wish to re-enter the labour market. Measures to this effect are often integrated into the national, municipal and sectoral-level vocational training and guidance services, and focus on facilitating women's re-entry into the labour force after child-rearing. Other measures aim at maintaining or strengthening the link between the employer and workers on parental or care leave in order to facilitate their re-entry into employment. The Committee calls for greater efforts to be made, through active employment policies, to target all workers with family responsibilities so as to facilitate their entry and re-entry into the labour force.

The Convention calls for the adoption of measures, compatible with national conditions and possibilities, to take account of the needs of workers with family responsibilities in terms and conditions of employment and in social security. It notes that for many workers, rigid schedules and long daily and weekly working hours are incompatible with achieving a work-family balance. The Committee welcomes the increasingly wide range of measures introduced into laws, regulations, collective agreements, and human resource policies and practices to promote equality and facilitate the reconciliation of work and family responsibilities. Many of these measures address working hours, working arrangements and leave based on a recognition that such innovations can benefit both workers and employers. The Committee notes that the adoption of such measures is critical to the full application of the Convention in practice.

Work organization, in particular working time, working arrangements and leave arrangements, are key factors that can either help facilitate work-life balance (e.g. flexible work schedules, worktime banks, telework, family leave) or hinder it (e.g. excessively long hours, unpredictable schedules, no family-related leave). The Committee stresses that workers should not be denied access to work organization entitlements, where they exist, and workers who take up these measures should not be subject to acts of reprisal or be negatively impacted in their career advancement or employment.

The changing nature of work and work processes, along with technological innovations and changes in attitudes, have the potential to allow for more adaptation and worker control over their working arrangements. Many of these adaptations can and should help workers balance family responsibilities and work more effectively. Examples of such working arrangements include possibilities for voluntary reduction of working hours generally, flexible working hours, part-time work, homework, remote work, telework, and flexible annual leave. Also, the importance of taking into account family responsibilities (e.g. care needs of older persons and spousal work schedules) in assignments of shift and night work, job mobility, job transfers, travel schedules, and meeting schedules is underlined. The Committee welcomes the adoption of these work arrangements when they are voluntary and protected in accordance with other international labour standards, such as the Part-Time Work Convention, 1994 (No. 175). More generally, with respect to measures that facilitate work-life balance, the Committee notes that providing more autonomy and flexibility to workers can create a positive organizational climate that may also lead to improved performance. At the same time, the Committee cautions against flexible working arrangements, such as part time-work, being imposed upon workers, in particular women with family responsibilities, in a manner that could penalize them in terms of their pay, job security, social security, training or promotional opportunity.

Leave entitlements have a direct bearing on how easy or difficult it is for a worker to be able to be absent from the job to deal with a family emergency or to take a longer break for caring responsibilities. The Committee welcomes the fact that, in addition to the strengthening of maternity protection, paternity leave is increasingly being introduced. Arrangements to facilitate the reconciliation of work and family life following maternity and paternity leave may include: parental leave; adoption leave; family support leave; caregiver leave; leave to look after a family member who is sick, seriously ill, or has had an accident; leave for family medical reasons; leave for family events (such as weddings and funerals); and leave to take care of a close relation suffering from a serious condition or with a disability. It notes that despite the gradual uptake in paternity leave by men and the expansion of parental leave for both parents, mothers are still overwhelmingly the primary users of parental leave. From a review of the reports submitted by governments on the implementation of the Convention, the Committee finds that the reasons for men not taking up an equal share of available leave (as well as for not applying for certain working arrangements, such as part-time work or telework) are reported to include first and foremost the national, social and employment culture, then fear of retaliation (or stigma affecting workers using flexible work options), and concerns over loss of income or career development opportunities. The Committee welcomes the efforts undertaken by a small number of member States to adopt concrete measures to encourage men to take a greater role in relations to family responsibilities through, for example, introducing mandatory parental leave to be taken by both parents in turn and increasing leave allowances and other incentives. It calls on more governments and enterprises to adopt such measures and to ensure that men are included in conversations about family-friendly policies. The Committee also notes that there has been less progress regarding the right to paid leave and flexible work for those caring for older or disabled persons compared to those caring for children. Given the demographic projections demonstrating the growth of the dependency ratio of the elderly in addition to that of children, and the increasing pressure this is likely to place on the working generation, the Committee

hopes that more leave arrangements will be adopted to facilitate workers' care for their elderly family members. The Committee is concerned that where leave arrangements do exist, they are not accessible to all workers, they are disproportionately taken up by women, and they are often unpaid or paid at a low rate. It calls on governments to take steps to address these gaps in the implementation of the Convention.

The Committee notes that social security plays a crucial role in implementing flexible working and leave arrangements by ensuring income support and access to medical care to workers and their families during periods of leave and beyond. Social security benefits are generally financed through employers' and workers' contributions and/or out of the State budget and may be accompanied by fiscal (tax) and other public measures for enhanced protection, as foreseen by the Convention. Many countries use a combination of benefits and approaches to ensure income and healthcare protection to workers and their families, during periods of leave related to family responsibilities. These include: maternity benefits; paternity or parental allowances; childcare allowances or subsidies; family benefits; home care allowances; disability care allowances and carers' allowances; as well as various tax credits, subsidies and grants.

The lack of access to adequate benefits has been found to act as a disincentive, in particular for men, to take up family-friendly leave and work arrangements. As for women, all too often they are working in forms of employment which are outside the scope of social security coverage or have limited entitlement to social security. The Committee wishes to seize this opportunity to underscore the need for social security laws and regulations to be reviewed in order to ensure that they include no direct or indirect sex-based discrimination, and for gender-inclusive measures to be taken to address inequalities. The Committee recalls that in many member States social security coverage is limited and welcomes the new international consensus on the crucial role of social protection in furthering human dignity, social cohesion, equality, social justice, as well as sustainable social and economic development as embodied by the Social Protection Floors Recommendation, 2012 (No. 202).

*Childcare and family services and facilities (Article 5).* The Convention requires member States to take into account the needs of workers with family responsibilities in community planning and in the development and promotion of community services, public or private, such as childcare and family services and facilities. The Committee notes that, the lack of quality, affordable care services has been identified by both men and women as one of the biggest challenges for women with family responsibilities who are in paid work, as well as the inflexibility of the hours of care of these services. It further notes that, where funded childcare has been provided, labour participation rates of women have increased. In the view of the Committee, it is essential that workers with family responsibilities have access to child and family care facilities meeting the needs of children of different ages, after school care, care for the disabled, and elderly care, that are affordable, accessible to their home and work, responsive to working hours, and provide quality care. Such services should be available free of charge or at a reasonable charge in accordance with the workers' ability to pay. The Committee welcomes the expansion of such services in many communities, including in rural areas. Nevertheless, the Committee is concerned that the demand exceeds the provision of such services and facilities in all parts of the world. Although the Convention does not place responsibility on the employer to provide such facilities, the Committee notes that employers have in some instances taken the initiative to establish childcare facilities and services for their employees, sometimes in collaboration with trade unions, and sometimes with a corresponding tax rebate or off-set or direct State subsidies. The Committee calls for surveys at community level to identify the needs of workers for childcare and family services and urges the establishment and extension of suitable services to meet those needs thus enabling all in paid work to better meet their family responsibilities.

*Information and education (Article 6).* The Committee stresses the importance of launching regular awareness-raising and education campaigns to promote broader public understanding of the difficulties faced by workers with family responsibilities. These interventions can be designed for any scale, from local to national and should aim to correct misinformation or contradict negative attitudes and beliefs vis-à-vis workers using flexible arrangements, while boosting their self-esteem, reducing self-stigma and promoting stress management; to encourage men to participate more in family responsibilities; and to promote understanding of the benefits to society, families and the workplace of gender equality and a better balancing of work and family life.

Recalling the ILO Centenary Declaration for the Future of Work's aim to achieve gender equality at work through a transformative agenda and stressing the importance of the Convention in achieving this goal, the Committee calls for member States, and employers' and workers' organizations, to strengthen efforts towards:

- making non-discrimination of workers with family responsibilities and the adoption of measures to facilitate the reconciliation of work and family responsibilities explicit aims of their national policy;
- regularly monitoring and assessing the results achieved within the framework of the national policy towards achieving the aims of the Convention with a view to adjusting the measures adopted or envisaged;
- launching regular public information campaigns to promote the sharing of family responsibilities and remove misconceptions around care roles;
- ensuring that workers with family responsibilities have effective equal opportunities and rights to enter, re-enter and remain integrated in the labour market;
- expanding and increasing access of all workers to voluntary and protected measures of working arrangements and leave that facilitate reconciliation of work–family life;

- expanding measures that support the reconciliation of work and family responsibilities within social protection systems;
- establishing and expanding adequate quality childcare and family services at community level;
- promoting social dialogue, collective bargaining and other measures to strengthen, facilitate and encourage the implementation of the principles of the Convention; and
- enhancing the capacity of enforcement authorities, including labour inspectors, tribunals, courts, and other competent bodies, to identify, prevent and remedy cases of discrimination in employment and occupation related to family responsibilities.

## Afghanistan

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)**

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. Equal remuneration for work of equal value. Legislation.* 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. The Committee takes note of the Government's indication, in its report, that the Tripartite Consultative Committee is still engaged in the revision process of the Labour Law with a view to ensuring greater conformity with the provisions of the Convention. 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 2012 General Survey on the fundamental Conventions, paragraph 673). **The Committee requests the Government to continue to provide information on the activities and recommendations of the Tripartite Consultative Committee concerning the revision of the Labour Law, and trusts that in the near future its national legislation will explicitly 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.**

*Gender pay gap.* The Committee welcomes the statistics provided by the Government and notes that, according to the Afghanistan Living Conditions Survey (ALCS) for 2013–14, women's average monthly wages were lower than those of men in all job categories, except in the public sector. Men were earning on average 30 per cent more than women in the same occupation and up to three and a half times more than women in the agriculture and forestry sector, where women represented two-thirds of the workforce. The Committee notes that, according to the ALCS for 2016–17, the situation of women has deteriorated as the labour force participation rate of women decreased from 29 per cent in 2014 to 26.8 per cent in 2017, and remained far lower than the labour force participation of men (80.6 per cent in 2017). Moreover, more women than men were in a vulnerable employment situation (89.9 per cent of women compared to 77.5 per cent of men). The Committee *regrets* that the ALCS for 2016–17 does not contain any more information on the gender pay gap. **The Committee requests the Government to provide information on the measures taken to reduce the gender pay gap and identify and address its underlying causes, as well as on the results achieved in this regard. Recalling the importance of the regular collection of statistics in order to undertake an assessment of the nature, extent and evolution of the gender pay gap, the Committee requests the Government to provide updated information on the earnings of men and women disaggregated by economic activity and occupation, both in the private and public sectors, as well as any available statistics or analysis on the gender pay gap.**

*Article 3. Objective appraisal of jobs. Civil service.* Referring to its previous comments, the Committee takes note of the salary scale annexed to the Civil Servants Law, 2008, according to which salaries are determined by reference to grades and steps. It notes that section 8 of the Law refers to the criteria used to determine employment grades according to diploma, skills and work experience. The Committee notes from the data of the national Central Statistics Organization that in 2016 women represented 22.5 per cent of all public sector employees, but only 7.5 per cent of those were placed in the third grade or higher position. **The Committee requests the Government to provide information on the practical application of section 8 of the Civil Servants Law, 2008, including on the methods and factors used to classify jobs under the different grades in order to ensure that tasks mainly performed by women are not being undervalued in comparison to the tasks traditionally performed by men. The Committee further requests the Government to provide information on the distribution of men and women in the various categories and positions of the civil service with their corresponding levels of earnings.**

*Article 4. Awareness-raising activities. Cooperation with employers' and workers' organizations.* The Committee notes the Government's indication that public information campaigns and activities to raise awareness about the principle of the Convention, particularly among employers' and workers' organizations, have been continued, some of which with the assistance of the ILO. **The Committee requests the Government to continue to provide information on awareness-raising activities carried out to promote the principle of the Convention, and to indicate whether any cooperation or joint activities have been undertaken together with the employers' and workers' organizations. The Committee also requests the Government to specify whether, as a result of the awareness-raising activities already implemented, the principle of the Convention has been effectively addressed by the social partners in collective agreements and, if so, to provide information in this respect, including copies of the relevant provisions.**

*Enforcement.* The Committee notes that, in the National Labour Policy for 2017–20, the Government recognizes laxity in the enforcement of labour-related legislation and indicates that periodic inspections will be conducted to reveal quality of compliance, as well as gaps in compliance for which appropriate actions would be taken against defaulting employers. The Committee further notes that, in its last concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern at the fact that decisions of informal justice mechanisms are discriminatory against women and undermine the implementation of existing legislation, and recommended that women's accessibility to the formal justice system be enhanced (CEDAW/C/AFG/CO/1-2, 30 July 2013, paragraphs 14 and 15). **The Committee requests the Government to provide information as to the steps taken to ensure stricter enforcement of labour legislation as regards the application of the Convention. In particular, the Committee requests information regarding**

*compliance with the requirements of the Convention, including the level of compliance and the identification of gaps in compliance, as well as any actions taken against defaulting employers. The Committee further requests the Government to provide information on any measures taken or envisaged to enhance women's accessibility to the formal justice system, as well as on any complaints made with regard to the principle of the Convention dealt with by the courts or any other competent authorities, including information on sanctions and remedies provided.*

*The Committee expects 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: 1969)**

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. Legislation.* The Committee previously noted that the prohibition of discrimination in section 9 of the Labour Law is very general and urged the Government to take the opportunity of the Labour Law reform process, in the context of the Decent Work Country Programme and the National Action Plan for Women of Afghanistan (NAPWA) 2007–17, to amend its legislation to explicitly prohibit direct and indirect discrimination covering all the grounds listed in Article 1(1)(a) of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b) of the Convention. The Committee notes the Government's indication, in its reports, that the Tripartite Consultative Committee is still engaged in the revision process of the Labour Law. Referring to its previous comments on section 10(2) of the Civil Servants Law, 2008, which only prohibits discrimination in recruitment based on the grounds of sex, ethnicity, religion, disability and "physical deformity", the Committee notes the Government's general statement that provisions of the Labour Law are also applicable to civil servants. *The Committee requests the Government to continue to provide information on the activities and recommendations of the Tripartite Consultative Committee concerning the revision of the Labour Law, and trusts that in a near future its national legislation will explicitly prohibit, both in the private and public sectors, direct and indirect discrimination covering all the grounds listed in Article 1(1)(a) of the Convention, as well as any other grounds determined in consultation with employers' and workers' organizations, in accordance with Article 1(1)(b) of the Convention, covering all aspects of employment and occupation. In the meantime, the Committee requests the Government to clarify the relationship between section 9 of the Labour Law and section 10(2) of the Civil Servants Law and, more generally, to indicate whether all the provisions of the Labour Law shall apply to civil servants or whether this is limited to provisions of the Labour Law which are expressly referred to by the Civil Servants Law.*

*Article 1(1)(a). Discrimination on the ground of sex. Work-related violence and sexual harassment.* The Committee takes note of the Law on the Prohibition of Harassment against Women and Children, adopted in December 2016 and approved by the President on April 2018, which defines and criminalizes physical, verbal and non-verbal harassment, and provides that harassment is punishable with a fine. On the other hand, it notes that section 30 of the Law on the Elimination of Violence against Women (EVAW), 2009, which provides that harassment is punishable by up to six months of imprisonment, was firstly incorporated into the revised Penal Code in March 2017 and then removed on the instruction of the Government in August 2017, as a result of pressure exerted by some members of the Parliament, which left the status of the EVAW Law in a state of uncertainty. The Committee also notes that several United Nations (UN) bodies expressed concern at the escalating level of targeted attacks, including killings, against high profile women, particularly those in the public sector, as well as at the prevalence of sexual harassment against women in the workplace (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 55 and Report of the UN Special Rapporteur on violence against women, its causes and consequences, A/HRC/29/27/Add.3, 12 May 2015, paragraphs 21 and 26). It notes that, according to a survey carried out in 2015 by the Women and Children's Legal Research Foundation, based in Afghanistan, 87 per cent of the women interviewed experienced harassment in the workplace. It further notes that the Afghanistan Independent Human Rights Commission (AIHRC) recently indicated that women police officers are particularly affected and that the Ministry of the Interior is currently finalizing an internal complaints mechanism to this end (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 53). The Committee notes that, pursuant to the 2015 Regulations on the Elimination of Harassment Against Women (11/07/1394), commissions aimed at addressing complaints have been established in several provinces, but that the UN High Commissioner for Human Rights recently highlighted that the mechanisms to combat sexual harassment against women in the workplace remained largely ineffective owing to underreporting, which is mainly due to the social stigma attached to the issue (Report of the UN High Commissioner for Human Rights, A/HRC/37/45, 21 February 2018, paragraph 54). *The Committee requests the Government to provide information on any concrete measures (such as, for example, campaigns addressed to the general public to promote gender equality) and specific programmes taken or envisaged to combat violence against women (and more particularly high-profile women), and sexual harassment at the workplace, both in the private and public sectors, including any social stigma attached to this issue. It further requests the Government to provide information on the number, nature and outcome of any complaints or cases of work-related violence or sexual harassment in the workplace handled by the commissions established under the 2015 Regulations, the labour inspectorate and the courts. The Committee also requests the Government to clarify the relationship between the Law on the Elimination of Violence against Women, 2009, and the Law on the Prohibition of Harassment against Women and Children, 2016, as well as the current status of both legislations. Please provide a copy of the Law on the Prohibition of Harassment against Women and Children, 2016, and of the 2015 Regulations on the Elimination of Harassment Against Women (11/07/1394).*

*Article 2. Equal access of men and women to vocational training and education.* The Committee notes the Government's indication that girls represent 45 per cent of total school enrollment. Referring to the discussion held at the Conference Committee on the Application of Standards at its 106th Session (June 2017) on the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), the Committee notes that non-state groups deliberately restricted the access of girls to education, including attacks and closure of girls' schools, and that 35 schools were used for military purposes in 2015. It further notes the low enrollment 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 written threats warning girls to stop going to school by non-state armed groups. The Committee notes that, in the Afghanistan Living Conditions Survey (ALCS) for 2016–17, the Central Statistics Organization indicates that, in 2016, girls' access to primary education was in decline, and female gross attendance rates in primary, secondary and tertiary education represented only 0.71, 0.51 and 0.39 per cent of the corresponding male rates, respectively. Furthermore, it is estimated that only 37 per cent of adolescent girls are literate, compared to 66 per cent of adolescent boys and that 19 per cent of adult women are literate compared to 49 per cent of adult men. *While acknowledging the difficult situation prevailing in the country, the Committee requests the Government to step up its efforts to encourage girls' and women's access and completion of education*

at all levels, and to enhance their participation in a wide range of training programmes, including those in which men have traditionally predominated. It requests the Government to provide updated statistics disaggregated by sex, on participation and completion rates of the different levels of education, as well as in the various vocational training programmes. The Committee again requests the Government to provide information on any measures taken as a result of the affirmative action policy in education envisaged by the NAPWA 2007–17.

*Article 5(1). Special measures of protection. Work prohibited for women.* The Committee previously noted that the list of physically arduous or harmful work prohibited for women to be established under section 120 of the Labour Law was still under preparation. *Noting the absence of updated information provided by the Government in that respect, the Committee again urges the Government to ensure that, in the process of the Labour Law reform, any restrictions on the work that can be done by women are strictly limited to maternity protection and are not based on stereotyped assumptions regarding their capacity and role in society that would be contrary to the Convention. It requests the Government to provide a copy of the list of work that is prohibited for women, once adopted.*

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.*

## Albania

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1997)**

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. Prohibited grounds of discrimination. Legislative developments.* The Committee notes with *interest* the adoption of Law No. 136/2015 which came into force in June 2016 and introduces amendments to the Labour Code. The Committee notes that section 9(2) prohibits discrimination in employment and occupation on a wide range of grounds that are already covered by section 1 of the Protection from Discrimination Law No. 10221 of 2010, and adds the grounds of disability, HIV/AIDS or union affiliation. The prohibition of discrimination covers access to employment, access to vocational training, and working conditions including termination of employment and remuneration (section 9(5)). In case of violations of section 9, the Committee notes that under new section 9(10), the burden of proof shifts to the employer once the plaintiff submits evidence upon the basis of which the court may presume discriminatory behaviour. The Committee further notes that new section 32(2) now defines and prohibits both quid pro quo and hostile environment sexual harassment. *The Committee requests the Government to provide information on the application in practice of section 9 of the Labour Code, including on any activities carried out in order to raise awareness of workers, employers and their organizations, as well as of labour inspectors and judges on the new provisions of the Labour Code protecting workers from discrimination in employment and occupation.*

*Discrimination on the basis of political opinion.* The Committee recalls that for a number of years, it has been expressing concern regarding the potentially discriminatory effect of "lustration" laws (Law No. 8043 of 30 November 1995 and afterwards Law No. 10034 of 22 December 2008) which provided for the exclusion of persons who had certain duties under the previous regime from serving in a broad range of public functions. The Committee also recalls that according to an amicus curiae opinion of the Venice Commission of the Council of Europe, aspects of the new "lustration" Law No. 10034 of 2008 were found to interfere disproportionately with the right to stand for election, the right to work and the right to access to public administration. The Committee notes with *interest* the Government's indication in its report that by Decision No. 9, dated 2 March 2010, the Constitutional Court of the Republic of Albania unanimously decided that the "lustration" Law No. 10034 of 2008 was unconstitutional and consequently without effect.

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.*

## Antigua and Barbuda

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 2003)**

*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 directly addressed to the Government.

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1983)***

*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.

## Australia

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)***

The Committee notes the observations of the Australian Council of Trade Unions (ACTU), received on 10 October 2018.

*Articles 1 and 2 of the Convention. Legislative developments.* The Committee previously welcomed the adoption of the Workplace Gender Equality Act of 2012 (the Act), under which all non-public sector employers with more than 100 employees must report annually to the Workplace Gender Equality Agency (WGEA) against a set of gender equality indicators, including equal remuneration between women and men. It noted that, following the amendments made in 2015 to the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1), with the aim of streamlining workplace gender equality reporting requirements in response to the difficulties encountered by businesses in complying with the former requirements (employers were no longer required to report on several elements concerning remuneration), a working group of stakeholders had been established to identify ways of improving data collection. The Committee requested the Government to provide information on the composition of the working group, the outcome of its discussions and any follow-up action taken. The Committee notes the Government's statement, in its report, that the non-manager working group was tasked with ensuring that reporting on standardized occupational categories and remuneration met the intended purpose of identifying disparities at the workplace level, so that the data is useful for benchmarking and for employers to improve gender equality in the workplace, which is consistent with the Act's objectives and the principle of the Convention. The working group identified Standard Business Reporting (SBR) as the best option to meet the dual aims of reducing the reporting burden on employers while improving data quality. The Workers' group recommended that an SBR pilot be developed and tested by the WGEA to investigate how an SBR-like solution could work for reporting under the Act. The Government adds that the options tested were not viable at that time. Referring to the amendments made in 2015 to the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1), the Government indicates that the amendments reflected extensive consultation, following the Workplace Gender Equality Reporting Regulation Impact Statement (2015), which assessed the burden of reporting as quite high, to the extent that it was affecting data quality. The Government states that the 2013 Instrument requires reporting on additional data including appointments, promotions and resignations, as well as the proportion of employees ceasing employment before returning to work from parental leave. Furthermore, data continue to be collected on flexible working arrangements, as well as gender-specific access to parental leave and support for caring. The Committee notes the Government's indication that the WGEA 2016–17 dataset indicates that there has been a 10.8 percentage points rise in the proportion of employers analysing their remuneration data for gender pay gaps, and that the proportion of organizations with specific pay equity objectives in their remuneration policy and/or strategy has doubled over the last three reporting periods. In 2017, in accordance with the Workplace Gender Equality Act 2012, the WGEA reported on progress achieved in relation to the gender equality indicators in its 2014–16 Progress Report to the Minister. The Report indicated that compliance with the Act remains strong at about 99 per cent. The Report also noted that the value of the data is becoming widely recognized by employers and the research community. The Committee however notes the ACTU's reiterated concerns regarding the reporting process implemented under the WGEA and its indication that it is neither rigorous nor detailed enough, as companies do not have to disclose actual pay data, but merely to tick a box advising whether or not they have an equal remuneration policy in place. The ACTU adds that companies, including those with fewer than 100 employees, should be required to provide detailed information on wages to enable a proper assessment of the causes, effects and drivers of the gender pay gap. ***The Committee asks the Government to provide information on the steps taken to evaluate, in collaboration with workers' and employers' organizations, the amendments made to the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) in light of the objectives of the Workplace Gender Equality Act, 2012 and the principle of the Convention. It asks the Government to provide information on any measures taken or envisaged to improve data collection on remuneration from companies, including those that employ fewer than 100 employees, and***

*ensure the effectiveness of the reporting process implemented under the Workplace Gender Equality Act of 2012, including as a result of the recommendations made by the multi-stakeholders working group.*

With regard to *Queensland*, the Committee welcomes the adoption of the Industrial Relations Act 2016 (IR Act), which entered into force on 1 March 2017 and covers only public sector workers and those who work for municipal councils in *Queensland*, as well as of the Industrial Relations Regulations 2018, which entered into force on 1 March 2018. It notes more particularly that the *Queensland* Industrial Relations Commission shall ensure equal remuneration for work of equal or comparable value, including by establishing and maintaining a system of non-discriminatory awards; supervising the bargaining of agreements and certifying those agreements; and making equal remuneration orders to ensure that employees covered by the order receive equal remuneration when the Commission is not satisfied that an award or agreement provides equal remuneration (sections 4(j), 141(2)(d), 143(1)(c), 201, 245–259, and 447(1) of the IR Act). ***The Committee asks the Government to provide information on the practical implementation of the Industrial Relations Act 2016 and the Industrial Relations Regulations 2018, including on the measures taken by the Queensland Industrial Relations Commission to ensure equal remuneration for work of equal value in awards, agreements and through equal remuneration orders in accordance with the obligations imposed by the Convention. It asks the Government to provide information on any difficulties encountered in the implementation of the Act and the Regulations, as well as the measures taken or envisaged to overcome them.***

With regard to *Victoria*, the Committee notes that a Gender Equality Bill 2018, containing new obligations for the Victorian public sector to plan and report on gender equality, has been released for public consultation. ***The Committee asks the Government to provide information on any progress made towards the adoption of the Gender Equality Bill 2018 and to provide a copy once adopted.***

With regard to *Western Australia*, the Committee notes that, in September 2017, the Ministerial Review of the State Industrial Relations System (the Review) was established in order to, inter alia, consider including an equal remuneration provision in the Industrial Relations Act 1979 (the IR Act), which applies to State public sector workers, municipal council workers and other workers in *Western Australia* not covered by the Fair Work Act, 2009. It notes that, on July 2018, the Review released its final report in which it recommended amending the IR Act to: (i) include an equal remuneration provision based on the model of the Queensland Industrial Relations Act 2016; and (ii) require the Western Australian Industrial Relations Commission (WAIRC), established under the IR Act, to develop an equal remuneration principle to assist parties in bringing applications pursuant to the equal remuneration provisions. The Committee notes that the final report was tabled in the state Parliament on 11 April 2019. ***The Committee asks the Government to provide information on any progress made towards the inclusion of an equal remuneration provision in Western Australian legislation, in particular by amending the Industrial Relations Act 1979, as well as the development of an equal remuneration principle by the Western Australian Industrial Relations Commission.***

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1973)***

The Committee notes the observations of the Australian Council of Trade Unions (ACTU) of 10 October 2018.

*Articles 1 and 2 of the Convention. Legislative developments and enforcement. Gender equality. Federal level.* In its previous comments, the Committee asked the Government to report on the amendments to the Fair Work Act 2009, the adoption of comprehensive anti-discrimination legislation at the federal level and on any evaluation undertaken of the amendments made to the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) of 2015. The Committee notes the Government's repeated indication in its report that the proposal to consolidate the five Commonwealth anti-discrimination Acts into a single comprehensive federal law was withdrawn and does not form part of the current Government's policy. The Government adds that equality and non-discrimination continue to be protected and promoted through legislative, policy and programme measures, including legislative anti-discrimination protections at the Commonwealth, state and territory levels. The Committee notes the Government's indication that the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) requires reporting from relevant employers on additional data including appointments, promotions and resignations, as well as the proportion of employees ceasing employment before returning to work from parental leave. Data on flexible working arrangements, as well as gender-specific access to parental leave and support for caring, continue to be collected. Referring to its 2019 observation on the application of the Equal Remuneration Convention, 1951 (No. 100), the Committee notes the Government's indication that reporting provided for under the 2013 Instrument seems to have had a positive impact in practice. The Workplace Gender Equality Agency's (WGEA) most recent 2016–17 dataset shows that the proportion of organizations with specific pay equity objectives in their remuneration policy and/or strategy has doubled over the last three reporting periods. ***The Committee asks the Government to report any new legislative developments or amendments made to the federal anti-discrimination laws, including the Fair Work Act 2009, as well as their application in practice. It asks the Government to provide information on any evaluation undertaken of the amendments made to the Workplace Gender Equality (Matters in relation to Gender Equality Indicators) Instrument 2013 (No. 1) and their impact in achieving effective equality of opportunity and treatment.***

*Article 1(1)(a). Discrimination based on religion. State level. Victoria.* The Committee previously raised concerns about sections 82(2) and 83(2) of the *Victoria Equal Opportunity Act 2010*, which provides exemptions to the prohibition on discrimination in the case of religious bodies and schools that conform to the doctrines, beliefs or principles of a religion, or when it is reasonable to avoid injury to the religious sensitivities of adherents to the religion. The Committee noted the Victorian Government's commitment to amending the religious exemptions in the *Equal Opportunity Act 2010*. The Committee further notes that the Victorian Government introduced the *Equal Opportunity Amendment (Religious Exceptions) Bill 2016* to that end. This will reinstate the "inherent requirement" test for employment by a religious body or religious school, which had previously been removed. The Committee, however, notes that the Bill passed the Legislative Assembly in September 2016, but was defeated in the Legislative Council in December 2016 and that as a result the "inherent requirement" test for employment by a religious body or religious school has not been reintroduced. ***The Committee asks the Government to indicate how it is ensured that sections 82(2) and 83(2) of the Victoria Equal Opportunity Act 2010 do not, in practice, hinder the enjoyment of equality of opportunity and treatment in respect of employment. The Committee also asks the Government to continue to provide information on any amendments envisaged to the Equal Opportunity Act 2010 with a view to bringing the provisions regarding religious exemptions into conformity with the Convention by establishing an "inherent requirement" test.***

*Discrimination on the basis of race, colour and social origin. Indigenous peoples. Federal level.* For a number of years, the Committee has been expressing concern regarding restrictions on the rights of indigenous peoples to land and property recognition and use. It previously noted that the Council of Australian Governments (COAG) conducted an investigation into indigenous land administration and use and, in its December 2015 final report, made six key recommendations to take forward this agenda, including many proposed amendments to the *Native Title Act 1993*. The Committee notes the Government's indication that it is developing a package of native title reforms to improve the efficiency and effectiveness of the native title system for all parties, including by: focusing on improving claims resolution; coming to agreements around the use of native title land; and introducing measures to promote the autonomy of native title groups to make decisions about their land and to resolve internal disputes. The Government indicates that, as of November 2017, approximately 79 per cent of native title determinations had been made by consent (406 determinations made in total). The Government adds that a paper seeking stakeholders' views on options for reform was released on 29 November 2017 and that feedback from stakeholders will inform the development of a draft *Native Title Amendment Bill*. The Committee however notes that several United Nations (UN) Treaty Bodies remain concerned about: (i) the high standard of proof required to demonstrate an uninterrupted connection to the area being claimed, and a continued practice of their traditional laws and customs; and (ii) the extreme difficulties in obtaining compensation under the current native title scheme for those people who had their native title extinguished. The Special Rapporteur on the rights of indigenous peoples expressed further concerns at the complex system, with multiple and overlapping legal regimes applicable to native title claims and land rights at the federal, state and territory levels (CEDAW/C/AUS/CO/8, 25 July 2018, paragraph 51; CERD/C/AUS/CO/18-20, 26 December 2017, paragraph 21; CCPR/C/AUS/CO/6, 1 December 2017, paragraph 51; A/HRC/36/46/Add.2, 8 August 2017, paragraph 99; and E/C.12/AUS/CO/5, 11 July 2017, paragraph 15). ***The Committee asks the Government to provide specific information on any progress made in the review and adoption of the draft Native Title Amendment Bill, in collaboration with indigenous peoples and other relevant stakeholders. It asks the Government to provide information on any other steps taken to ensure that indigenous peoples have access to land and resources to allow them to engage in their traditional occupations and access employment without discrimination.***

*Article 2. Equality of opportunity and treatment of indigenous peoples. Constitutional recognition.* The Committee recalls the steps undertaken to examine, raise awareness and build support for the constitutional recognition of Aboriginal and Torres Strait Islander peoples, including the adoption of the *Aboriginal and Torres Strait Islander Peoples Recognition Act 2013*. It previously noted that while the Referendum Council, established to give advice on Aboriginal and Torres Strait Islander peoples, called for constitutional recognition of indigenous peoples, the Government had rejected this proposal. The Committee notes the Government's statement that it remains committed to recognizing Aboriginal and Torres Strait Islander peoples in the Constitution, but does not believe that the Referendum Council's proposal to provide for a national indigenous representative assembly to constitute a 'Voice to Parliament' is either desirable or capable of winning acceptance in a referendum. The Government indicates that the Commonwealth Parliament's Joint Select Committee on Constitutional Recognition Relating to Aboriginal and Torres Strait Islander Peoples was appointed in March 2018 and will consider the recommendations of the Referendum Council (2017), the Uluru Statement from the Heart (2017), the Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Islander Peoples (2015) and the Expert Panel on Constitutional Recognition of Indigenous Australians (2012). ***The Committee asks the Government to continue providing information on the status of the process of specifically recognizing Aboriginal and Torres Strait Islander peoples in the Constitution.***

*National policy and programmes for indigenous peoples.* The Committee previously noted the "Closing the Gap Strategy", which is a formal commitment by federal, state and territory governments to achieve equality for Aboriginal and Torres Strait Islander peoples within 25 years. However, it noted from the 2017 assessment report that the employment target was not being met, and that while there had been an increase in the employment rate of indigenous peoples since 1994, there has been a decline since 2008. The Committee notes the Government's indication that it is on track to meet three out of seven of the current "Closing the Gap" targets and that all Australian governments are working together, in consultation with Aboriginal and Torres Strait Islander peoples, to update the "Closing the Gap" targets. The Government

adds that, between November 2017 and April 2018, “Closing the Gap Refresh” hosted a special gathering of indigenous representatives, conducted 18 national round tables and held a series of workshops, presentations and meetings. Over 1,000 stakeholders have participated in these consultations. The Government indicates that a public submission process closed on 30 April 2018 with over 170 submissions received and that, based on these consultations, Commonwealth, state and territory officials worked with indigenous academics, experts and practitioners to draft potential targets. The Committee notes that the COAG will consider “Closing the Gap” targets at its next meeting.

Concerning indigenous employment initiatives, the Committee notes the reference made by the Government to several specific initiatives aimed, inter alia, at enhancing indigenous people’s access to employment and vocational training, such as the Employment Parity Initiative (EPI) which encourages large employers to enter into a parity partnership with the Government to increase the proportion of indigenous employment, as well as to use indigenous businesses in their supply chains. The Government adds that specific affirmative measures have been implemented to expand the range of indigenous employment opportunities in the public sector, including in the framework of the Australian Public Service Commissioner’s Directions 2016 and the Commonwealth Aboriginal and Torres Strait Islander Employment Strategy. While welcoming this information, the Committee notes that the ACTU remains concerned that work-related discrimination against indigenous peoples is not being properly addressed by the current governmental scheme.

The ACTU also highlights that, according to a recent survey, 9 per cent of Australians aged 25–44 would not hire an indigenous person for a job and 22 per cent do not see this as an act of discrimination. The ACTU expresses specific concern about the Community Development Programme (CDP), which aggressively targets indigenous people, who represent 80 per cent of CDP participants. The ACTU indicates that, according to the Australia Institute, the programme is not generating employment, as less than 20 per cent of CDP participants are supported into a job and less than 10 per cent stay in that job for six months. The trade union further expresses concern at the fact that CDP participants are typically required to work 25 hours a week for 280 Australian dollars (AUD) or AUD11.20 per hour, while the hourly minimum wage was AUD18.93 in 2018. The ACTU highlights that recipients receive even less if penalties for non-compliance are incurred, which is a common occurrence, and asks the Government to end this programme. The Committee notes that several UN Treaty Bodies express further concern at: (i) the low level of implementation of the “Closing the Gap” targets; (ii) the low level of school attainment and high drop-out rates at all school levels; as well as (iii) the high unemployment rate among indigenous peoples (CEDAW/C/AUS/CO/8, 25 July 2018, paragraph 51; A/HRC/38/47/Add.1, 17 April 2018, paragraph 47; CERD/C/AUS/CO/18-20, 26 December 2017, paragraphs 17 and 23; A/HRC/36/46/Add.2, 8 August 2017, paragraphs 11, 46, 54 and 57; E/C.12/AUS/CO/5, 11 July 2017, paragraphs 15 and 51; and A/HRC/35/41/Add.2, 9 June 2017, paragraphs 40, 48 and 51).

*State level.* The Committee notes the range of initiatives being undertaken in some of the states and territories to promote equality of opportunity and treatment of indigenous peoples and to address discrimination. The Committee notes that several states, such as *Queensland*, *New South Wales*, *Victoria* and *Western Australia*, are implementing affirmative actions to enhance the employment of Aboriginal and Torres Strait Islander peoples in the public sector, in particular in senior positions. It further notes that, within the framework of *Queensland*’s Annual Vocational Education and Training (VET) Investment Plan, several programmes have been implemented to enhance access to vocational education and training for indigenous people. The Committee notes the release in 2017 of the “Tharamba Bugheen” Aboriginal Business Strategy 2017–21 in *Victoria*, which aims to strengthen the entrepreneurial culture and to advance the economic position of aboriginal Victorians, as well as improving the visibility and networks of aboriginal businesses.

*In light of the failure to meet the employment targets and the persistent disadvantaged position of indigenous peoples in education and employment, the Committee asks the Government to pursue its efforts and provide information on any assessment carried out on the impact of the different measures undertaken to enhance indigenous peoples’ access to the labour market, as well as on any corrective measures taken as a result, in particular to address the concerns expressed regarding the Community Development Programme. It asks the Government to provide information on any revision made of the “Closing the Gap Strategy” targets, in collaboration with indigenous peoples and other relevant stakeholders, as well as on any progress made in meeting these targets, in particular concerning employment. The Committee asks the Government to continue providing detailed information on the policies and programmes implemented to address discrimination and promote equality of opportunity and treatment in employment and occupation for indigenous peoples at the federal, state and territory levels, as well as on their impact.*

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

## Bangladesh

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1998)***

*Articles 1 to 4 of the Convention. Assessing and addressing the gender wage gap.* With reference to its previous comments concerning the wide and persistent gender wage gap, the Committee notes the Government’s statement in its report that there is no gender pay gap in the formal sector, but that invisible pay differentials exist in the informal sector which is excluded from the scope of application of the Labour Act, 2006. The Committee recalls in that respect that it previously noted that section 345 of the Labour Act, 2006, provides that, in determining wages or fixing minimum wage rates, the principle of equal wages for male and female workers for work of “equal nature or equal value” shall be followed.

The Committee notes the adoption of the Seventh Five-Year Plan (2016–20) for implementing the Government’s Vision 2021, which sets specific targets on gender equality and income equality. With reference to the Decent Work Country Programme (DWCP), which provides for the promotion of the Convention and the enhancement of the capacity of constituents’ for its better implementation, the Committee notes that the United Nations Development Assistance Framework (UNDAF) for 2017–20 sets as a specific outcome that, by 2020, relevant state institutions, together with their respective partners, shall increase opportunities, especially for women to contribute to and benefit from economic progress, including by the reducing the gender wage gap which was estimated at 21.1 per cent in 2007 to a target of 10 per cent in 2020. The Committee notes that, according to the 2017 Labour Force Survey (LFS) of the Bangladesh Bureau of Statistics, the labour force participation rate of women remains far below that of men (36.4 per cent for women compared to 80.7 per cent for men), while their unemployment rate is twice as high as that of men (6.7 per cent for women compared to 3.3 per cent for men). It notes that only 0.6 per cent of women are managers, while 15.8 per cent of them are in elementary occupations. The Committee notes that, according to the LFS, the gender wage gap persists in some occupations, such as craft and related trade workers, elementary occupations and agricultural workers, and that wage differentials between the average monthly earnings of paid women and men employees in 2016–17 was estimated at 9.8 per cent. The Committee further notes, from the LFS, that women employed in the same occupational categories as men systematically receive lower remuneration in all occupational categories. Noting the Government’s statement that pay differentials in the informal sector are decreasing as a result of actions by the Government and the media but that it is very difficult to control the pay gap in the sector, the Committee notes the increasing number of women who are working in the informal economy, which is characterized by low earnings and poor conditions, who are estimated at 91.8 per cent of women in 2017 (compared to 85.6 per cent in 2005–06). The Committee notes that, in its 2018 concluding observations, the United Nations Committee on Economic, Social and Cultural Rights expressed concern at the large and persistent gender pay gap which reached 40 per cent (E/C.12/BGD/CO/1, 18 April 2018, paragraph 33(b)). It also notes that, in the framework of the Universal Periodic Review (UPR), the Human Rights Council specifically recommended reducing the gender wage gap and ensuring women’s access to the labour market (A/HRC/39/12, 11 July 2018, paragraph 147). ***The Committee asks the Government to adopt concrete measures to reduce the existing gender wage gap, in both the formal and informal economy, and to ensure that implementation of the principle of equal pay for work of equal value. The Committee also asks the Government to promote women’s access to the labour market and to jobs with career prospects and higher pay, particularly in the framework of the Seventh Five-Year Plan for 2016–20 and the Decent Work Country Programme for 2017–20. It asks the Government to provide any assessment made of the effectiveness of the measures adopted and implemented to that end, as well as any study undertaken to assess the nature and extent of wage differentials in the informal economy. The Committee asks the Government to provide updated statistical data on 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 previously noted that section 2(xlv) of the Labour Act excludes particular aspects of remuneration from the definition of “wages”, including in-kind emoluments such as accommodation. It also recalls the provisions of section 345 of the Labour Act, referred to above. The Committee notes the Government’s statement that it considers that the definition of wages in the Labour Act to be in line with the Convention. In this regard, the Committee draws the Government’s attention to the fact that *Article 1(a)* of the Convention sets out a broad definition of remuneration, which includes 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, 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). ***The Committee asks the Government to take appropriate steps so that the definition of “wages” provided under section 2(xlv) of the Labour Act is modified to encompass all the elements of remuneration, as defined in Article 1(a) of the Convention, in order to ensure that section 345 of the Labour Act fully reflects the principle of the Convention. In the meantime, the Committee asks the Government to provide information on the manner in which it is ensured that the principle of equal remuneration for men and women for work of equal value is applied in practice in relation to those aspects of remuneration which are excluded from the definition of “wages” under section 2(xlv) of the Labour Act.***

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1972)***

*Article 1 of the Convention. Protection against discrimination. Definition and prohibition of discrimination in employment and occupation. Legislation.* For a number of years, the Committee has been drawing the Government’s attention to the absence of legislative provisions providing protection against discrimination based on all 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. In its previous comments, the Committee noted that the Government did not take the opportunity of the adoption of the Bangladesh Labour (Amendment) Act of 2013 (Act No. 30 of 2013) nor of the Bangladesh Labour Rules of 15 September 2015 (S.R.O. No. 291-Law/2015) to include the principles of the Convention in its national legislation. In this regard, the Committee notes the Government’s repeated statement in its report that the

Constitution provides protection against discrimination in employment and occupation. The Committee recalls that the main non-discrimination provision of the Constitution provides for non-discrimination by the State, but does not address the situation of the private sector and does not prohibit all the grounds of discrimination enumerated in *Article 1(1)(a)* of the Convention (Article 28 of the Constitution). The Committee again draws the Government's attention to the fact that general equality and non-discrimination provisions in the Constitution, although important, have generally not proven to be sufficient to address specific cases of discrimination in employment and occupation (see the 2012 General Survey on the fundamental Conventions, paragraph 851). The Committee also notes that several United Nations (UN) Treaty Bodies (Committee on the Elimination of Discrimination against Women, Human Rights Committee, Committee on Migrant Workers) have expressed concern that the Government has delayed the adoption of the "long-awaited comprehensive anti-discrimination legislation" and that, in 2018, the Human Rights Council, in the context of the Universal Periodic Review (UPR), recommended that the Government expedite the formulation of an anti-discrimination Act (A/HRC/39/12, 11 July 2018, paragraph 147). ***The Committee therefore urges the Government to take concrete steps without delay to ensure that the Labour Act of 2006 is amended or other anti-discrimination legislation adopted, in order to: (i) prohibit direct and indirect discrimination, on at least all of the grounds enumerated in Article 1(1)(a) of the Convention with respect to all aspects of employment and occupation; and (ii) cover all categories of workers, in both the formal and informal economy, including domestic workers. It asks the Government to provide information on any progress made in this regard, as well as a copy of any new legislation once adopted. The Committee further asks the Government to ensure the protection of men and women workers against discrimination in employment and occupation in practice, and particularly by the categories of workers excluded from the scope of the Labour Act.***

***Domestic workers.*** The Committee recalls that the Labour Act, 2006, excludes domestic workers from its scope of application. It notes the Government's indication that, considering the economic and social settings of the country and the level of development of the inspection machinery, some sectors and occupations, such as domestic workers, mainly composed of self-employed and own-account workers, are excluded from the scope of the Labour Act. The Government indicates that this is because it is not feasible to apply all provisions of the Labour Act to them, but that such workers are being brought within the scope of the law gradually. The Committee 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, paragraph 778). The Committee notes that, in its 2016 concluding observations, the CEDAW highlighted the difficult situation of women domestic workers in the country and expressed concern that: (i) women domestic workers are subject to violence, abuse, food deprivation and murder; (ii) such crimes go unreported; and (iii) the victims have limited access to justice and redress (CEDAW/C/BGD/CO/8, 25 November 2016, paragraph 32). ***The Committee hopes that the Government will take the necessary steps to ensure that domestic workers are protected, in both law and practice, against any form of discrimination in employment and occupation and that they enjoy full equality of opportunity and treatment on the same footing as other workers without discrimination. The Committee asks the Government to ensure that domestic workers have effective access to adequate procedures and remedies and to provide information on the number, nature and outcome of complaints concerning discrimination in employment filed by domestic workers, disaggregated by sex, race national extraction, and social origin.***

***Article 1(1)(a). Discrimination based on sex. Sexual harassment.*** The Committee previously noted section 332 of the Labour Act, which prohibits conduct towards female workers that is "indecent or repugnant" to their modesty or honour, and the guidelines on sexual harassment contained in a High Court ruling in 2009. The Committee notes the Government's statement that, following the ruling of the High Court, several initiatives were implemented by the Ministry of Women and Children Affairs (MOWCA) to prevent any kind of gender-based violence, including through the implementation of the National Plan for the Prevention of Violence against Women and Children for 2013–25 and the establishment of several committees under different ministries, and a national centre for violence against women and children. While welcoming these initiatives, the Committee notes that the Government does not provide information on any activity or programme specifically targeting sexual harassment in employment and occupation. The Committee notes the Government's statement that sexual harassment in employment and occupation is very rare and that workers, employers and their organizations are very much aware of their rights, obligations and procedures. However, the Committee notes that, as highlighted in the Decent Work Country Programme (DWCP) 2017–20, studies and data from the Bangladesh Bureau of Statistics (BBS) show that violence against women in the form of verbal and physical abuse is taking place among industrial workers. It further notes that, as highlighted in 2018 in the context of the UPR, the UN Special Rapporteur on violence against women reported that sexual harassment was also commonplace in various working environments and was sometimes justified as being "part of the culture" by state and non-state actors (A/HRC/WG.6/30/BGD/2, 19 March 2018, paragraph 54). The CEDAW also expresses concern at: (i) the lack of information on the impact of the ruling of the High Court requiring all schools to develop a policy against sexual harassment in schools and on the way to and from school; and (ii) the failure to implement the High Court guidelines concerning the protection of women from sexual harassment in the workplace (CEDAW/C/BGD/CO/8, 25 November 2016, paragraphs 18, 28(b) and 30(b)). Given the gravity and serious repercussions of sexual harassment on workers and also on the enterprise, the Committee highlights the importance of taking effective measures to prevent and prohibit sexual harassment at work which is a serious manifestation of sex discrimination (see 2012 General Survey, paragraph 789). ***The Committee encourages the Government to take steps to ensure that a comprehensive definition and a clear prohibition of both forms of sexual harassment (quid pro quo and hostile work***

*environment) in employment and occupation is included in the Labour Act. It also asks the Government to take preventive measures, including awareness-raising initiatives on sexual harassment in employment and occupation and on the social stigma attached to this issue, among workers, employers and their respective organizations, as well as law enforcement officials, specifying the procedures and remedies available. It asks the Government to provide information on the number, nature and outcome of any complaints or cases of sexual harassment in employment and occupation dealt with by labour inspectors, the courts or any other competent authority, as well as updated statistical data on the extent of sexual harassment perpetrated against girls and women in education and in employment and occupation.*

*Articles 2 and 3. Equality of opportunity and treatment for men and women.* Referring to its previous request regarding the measures taken to promote gender equality in employment and occupation and the results achieved, the Committee welcomes the Government's statement that, as a result of the National Women Development Policy of 2011, several national action plans and programmes have been implemented to promote women's entrepreneurship and access to productive employment. These plans and programmes include capacity-building on information and communication technology, and the establishment of a selling and exhibition centre ("Joyeeta") to help in the selling of products from remote areas through the Women's Association. The Committee notes that, as a result of the Northern Areas Reduction of Poverty Initiative (NARI) project (completed in December 2018), aimed at facilitating access to employment opportunities in the ready-made garments sector for poor and vulnerable women, training and employment was provided to 10,800 poor and vulnerable women aged 18–24 years of whom 3,236 have so far graduated. The Government adds that several programmes have been continued by the Rural Development and Cooperatives Division (RDCD), such as microcredit to promote the self-employment of rural and vulnerable women, and livelihood programmes in rural areas. The Government also refers to the introduction of a 15 per cent quota of women, in the public service, as well as a 60 per cent quota in the posts of primary school teachers, and that women are now allowed to join the armed forces. Furthermore, in order to increase women's participation in tertiary education, arrangements have been made for stipends and 20 per cent of places are reserved for women in the Technical and Vocational Institute. The Committee notes the adoption of the Seventh Five-Year Plan (2016–20), for the implementation of the Government's Vision 2021, which sets specific targets on gender equality, such as increasing literacy and enrolment in tertiary education for women, encouraging women's enrolment in technical and vocational education, and creating good jobs for unemployed women and new entrants in the labour market by increasing their share of employment in the manufacturing sector from 15 to 20 per cent. The Committee notes that the new DWCP for 2017–20 encourages women's enrolment in technical and vocational education to enhance their employability (outcome 1.2 of the DWCP). It notes that the DWCP acknowledges that gender inequality is evidenced by large differences in labour force participation rates, greater women's involvement in vulnerable and informal employment and in wage differentials, and sets as a specific outcome in 2.1, the promotion of the ILO fundamental Conventions, including Convention No. 111, and the enhancement of constituents' capacity for their better implementation. While welcoming the efforts made by the Government, the Committee notes that, according to the 2017 labour force survey of the BBS, the labour force participation rate of women remains far below that of men (36.4 per cent for women compared to 80.7 per cent for men), and their unemployment rate is twice as high as that of men (6.7 per cent for women compared to 3.3 per cent for men). It notes that women are mostly concentrated in agriculture (59.7 per cent) and manufacturing (15.4 per cent) and that, in 2017, only 0.6 per cent of women were managers, while 15.8 per cent of them were in elementary occupations. The Committee further notes that while almost 40 per cent of women are own-account workers, an increasing number of women (estimated at 91.8 per cent of women in 2017, compared with 85.6 per cent in 2005–06) are working in the informal economy which is characterized by low earnings and poor conditions. The Committee notes that several UN treaty bodies (such as the Human Rights Committee and the Committee on the Elimination of Discrimination against Women) have expressed concerns at the lack of implementation of the provisions of the Constitution and of existing laws on the rights of women and girls, due in part to prevailing patriarchal attitudes (CCPR/C/BGD/CO/1, 27 April 2017, paragraph 11(a), and CEDAW/C/BGD/CO/8, 25 November 2016, paragraph 10). It further notes that in its 2016 concluding observations, the CEDAW expressed concern at: (i) the low participation rate of women in the formal economy; (ii) the persistent patriarchal attitudes and discriminatory stereotypes about the roles and responsibilities of women and men; (iii) the limited efforts made by the Government to eliminate such stereotypes which constitute serious barriers to women's equal enjoyment with men of their human rights and their equal participation in all spheres of life; (iv) the underrepresentation of women and girls in non-traditional fields of study and career paths, such as in technical and vocational education, and in higher education; and (v) the large number of girls dropping out of school between the primary and secondary levels of education owing to early child marriage, sexual harassment and early pregnancy, the low value placed on girls' education, poverty and the long distances to schools in rural and marginalized communities. Further, the CEDAW was concerned about: (i) the limited access of rural women to education, land ownership and financial credit and loans from public banks, given that laws and policies do not recognize them as farmers; and (ii) persistent discrimination against pregnant women in the private sector and the lack of implementation of the six months maternity period provided for in the Bangladesh Labour (Amendment) Act of 2013 (CEDAW/C/BGD/CO/8, paragraphs 16, 28, 30, 32 and 36). ***The Committee therefore urges the Government to strengthen its efforts to address obstacles to women's employment, in particular patriarchal attitudes and gender stereotypes and lack of access to productive resources, and to enhance women's economic empowerment and promote their access to equal opportunities in formal employment and decision-making positions as well as by encouraging 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 indicate how the quotas in public employment (15 per cent) and***

*applicable to primary school teachers (60 per cent) are implemented and the results achieved. The Committee also asks the Government to provide updated statistical information on 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, as well as the informal economy.*

*Article 5. Special measures of protection. Restrictions on women's employment.* For more than a decade, the Committee has been drawing the Government's attention to the fact that section 87 of the Labour Act, which provides that the restrictions set out in sections 39, 40 and 42 of the Labour Act shall apply to women workers as they apply to adolescent workers, are gender biased with respect to women's capabilities and aspirations and may have the effect of excluding women from work opportunities. The Committee notes the Government's statement that, despite the amendments made in 2013, these sections of the Labour Act were retained in order to protect the life and dignity of children and women. The Committee wishes to recall that protective measures for women may be broadly categorized into 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, which are contrary to the Convention and constitute obstacles to the recruitment and employment of women. In addition, 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 (see 2012 General Survey, paragraphs 839–840). *In light of the above, the Committee urges the Government to review its approach to restrictions on women's employment and to take the necessary steps to ensure that section 87 of the Labour Act is modified so that any restrictions on the work that can be done by women are limited to maternity protection, in the strict sense, and are not based on stereotyped assumptions regarding their capacity and role in society. It asks 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.

## Barbados

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)**

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. Equal remuneration for work of equal value. Legislation.* In previous comments, the Committee noted the absence of a legislative framework supporting the right to equal remuneration for men and women for work of equal value. Having noted also that the existing mechanisms for collective bargaining and wage councils for wage determination did not seem to promote and ensure effectively this right, the Committee requested the Government to take measures to give full legislative expression to the principle of equal remuneration for men and women for work of equal value. The Committee notes from the Government's report on Discrimination (Employment and Occupation) Convention, 1958 (No. 111) that the draft National Gender Policy, which includes a section on employment, is currently being reviewed by the relevant ministries but that the Employment (Prevention of Discrimination) Bill is yet to be adopted. The Committee once again recalls the particular importance of capturing in legislation the concept of "work of equal value" in order to address the segregation of men and women in certain sectors and occupations due to gender stereotypes. *In light of the ongoing legislative and policy developments on gender equality and non-discrimination, the Committee 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 will be fully reflected in the National Gender Policy and in the Employment (Prevention of Discrimination) Bill, and to provide a copy of the policy and the new legislation, once adopted.*

*Gender earnings gap and occupational segregation.* The Committee notes from the statistics published by the Barbados Statistical Service (Labour Force Survey) that of all women employed in 2015, 52.4 per cent earned less than 500 Barbadian dollars (BBD) per week compared to 41.8 per cent of all men employed in that same year. Among those earning between BBD500 and BBD999 per week, men represented almost 56 per cent and women only 44 per cent. Among those earning between BBD1,000 and BBD1,300, women represented 46.6 per cent and men 53.1 per cent. Men also account for a little more than half of the workers (52.5 per cent) in the highest earnings group (over BBD1,300). The Committee further notes from the Labour Force Survey data for 2015 the persistent occupational gender segregation of the economy with women mostly employed as service workers and clerks while men are mostly employed as craft and related workers or plant and machine operators. When looking at economic sectors, women workers are highly represented in "Accommodation and Food Services", and their numbers sometimes more than doubles or triples the number of male workers in "Finance and Insurance", "Education" and "Human Health and Social Work". Women are also over-represented among household employees. In contrast, men largely predominate in the "Construction" and "Transportation and Storage" sectors. The Committee further refers to its comments on Convention No. 111. *The Committee asks the Government to take measures to reduce the earnings gap between men and women and to increase the employment of women in jobs with career opportunities and higher pay. Recalling that wage inequalities may arise due to the segregation of men and women into certain sectors and occupations, the Committee also asks the Government to provide information on the results achieved under the National Employment Policy and 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.

*The Committee expects 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: 1974)**

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

*Articles 1–3 of the Convention. Legislative protection against discrimination.* The Committee had previously noted that the Employment Rights Act 2012, while protecting workers against unfair dismissal on all the grounds enumerated in *Article 1(1)(a)* and certain additional grounds under *Article 1(1)(b)* of the Convention, did not ensure full legislative protection against both direct and indirect discrimination for all workers in all aspects of employment and occupation. The Committee previously asked the Government to address the protection gaps in the legislation. The Committee notes that the Government in its report merely restates the constitutional provisions on equality, and the protections afforded by the Employment Rights Act 2012. The Government also maintains that no distinctions, exclusions, or preferences based on the prohibited grounds set out in *Article 1(1)(a)* or on any additional grounds determined in accordance with *Article 1(1)(b)* exist in the country, and that no discrimination cases have been reported. Regarding the presumed absence of discrimination, the Committee considers that it is essential to acknowledge that no society is free from discrimination, and that continuous action is required to address discrimination in employment and occupation, which is both universal and constantly evolving (see 2012 General Survey on the fundamental Conventions, paragraphs 731 and 845). **Noting that the Employment (Prevention of Discrimination) Bill 2016 is still in draft form, the Committee urges the Government to take steps, without further delay, to address the protection gaps in the legislation, and to ensure that the anti-discrimination legislation expressly defines and prohibits direct and indirect discrimination in all aspects of employment and occupation, for all workers, and on all the grounds set out in the Convention. The Committee also repeats its request to the Government to provide information on the steps taken to ensure that all workers are being protected in practice against discrimination not only with respect to dismissal but with respect to all aspects of employment and occupation, on the grounds set out in the Convention. Such measures could include public awareness raising aimed at, or in cooperation with, workers and employers and their organizations, or the development of codes of practice or equal employment opportunities guidelines to generate broader understanding on the principles enshrined in the Convention. Noting with regret that for several years the Government has not provided any information on the action taken to promote and ensure equality of opportunity and treatment with respect to race, colour and national extraction, and to eliminate discrimination in employment and occupation on these grounds, the Committee urges the Government to provide such information without delay, including any studies or surveys on the labour market situation of the different groups protected under the Convention.**

*Article 1(1)(a). Discrimination on the grounds of sex. Sexual harassment.* The Committee previously noted the absence in the Employment Rights Act 2012 of provisions protecting workers against sexual harassment. The Committee notes the Government's indication that the proposed Sexual Harassment in the Workplace Bill will define and prohibit both quid pro quo and hostile environment sexual harassment and provide for a tribunal to hear complaints and determine matters related to sexual harassment. **The Committee urges the Government to take steps to ensure that the draft Sexual Harassment in the Workplace Bill is adopted speedily and that it will define and prohibit sexual harassment (both quid pro quo and hostile environment harassment) in all aspects of employment and occupation, and asks that the Government provide a copy of the latest version of the Bill, or as enacted, with 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.**

## Benin

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1961)**

*Article 1(1)(a) and (3) of the Convention. Prohibited grounds of discrimination and scope of application. Legislation.* The Committee notes the Government's indication in its report that the Supreme Court is examining proposals to repeal the draft Labour Code in order to update it, following the adoption of Act No. 2017-05 of 29 August 2017, setting out the conditions and procedure for recruitment, placement and termination of an employment contract. It also notes that this revision will provide an opportunity to consider the Committee's observations regarding the preliminary draft Labour Code. The Committee further notes the Government's indication that recruitment (access to employment) is covered by the term "employment", which is mentioned in the draft Labour Code. The Committee recalls that it drew the Government's attention to the fact that social origin no longer seems to be one of the prohibited grounds of discrimination, although this ground is included in the Labour Code currently in force and in the Convention. The Committee once again recalls that when legal provisions are adopted to give effect to the principle of the Convention, they must include, as a minimum, all the grounds of discrimination listed in *Article 1(1)(a)* of the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 853). **The Committee therefore expresses its firm hope that the Government will take the opportunity provided by the revision of the draft Labour Code to ensure that all forms of direct and indirect discrimination based, as a minimum, on all the grounds listed in the Convention, including colour, national extraction and social origin, and any other grounds it deems should be prohibited, are expressly prohibited in the new Labour Code. The Government is requested to provide information on the status of the Labour Code reform, including the content of the new draft.**

*Article 1(1)(b). Additional grounds of discrimination. Disability.* The Committee notes with *interest* the adoption, on 13 April 2017, of Act No. 2017-06 providing for protection and promotion of the rights of persons with disabilities, which contains provisions on, notably, education, training and employment of persons with disabilities. It notes in particular that the Act provides that "all discrimination and systematic rejection of applicants based on disability shall be prohibited" and that "persons with disabilities shall have the right to employment ... based on the principle of equality" (section 37). The Committee also notes that the Act provides for the promotion of employment on the labour market of persons with disabilities (section 39), particularly through the adoption and implementation of policies and programmes setting out incentives to encourage the employment of these persons in the private sector (section 40), and the provision of assistance for entrepreneurship for these persons (section 43). The Act also provides that civil servants or employees who "acquire a disability" must be kept in their initial job or transferred to another post that is compatible with their new situation

(section 42). The Committee notes that legal penalties are provided for in the case of violation of these provisions, particularly when an application is rejected from a person with disabilities for a job (in the public or private sector) to which he or she is suited (section 70) or when a discriminatory job offer is published (section 71). *Welcoming these legislative advances, the Committee requests the Government to take the necessary measures to implement Act No. 2017-06 and promote employment of persons with disabilities on an equal footing with other workers in practice, and to provide information on the provisions setting out incentives to this end. The Government is also requested to take specific measures to raise awareness of the provisions among workers, employers and their respective organizations, as well as administrations, labour inspectors and magistrates. The Committee requests the Government to provide information on the measures adopted in this regard and on any other complaints concerning the application of the above Act and, where possible, any other judicial and administrative decisions.*

*Article 2. National equality policy.* The Committee recalls that the Government has still not adopted a national equality policy covering all workers and all the grounds of discrimination set out in the Convention. It also recalls that the implementation of a national equality policy presupposes the adoption of a range of specific measures, which often consist of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes and awareness-raising (see 2012 General Survey, paragraph 848). In this regard, the Committee notes the Government's indication in its report that no progress has been made on this matter. *The Committee requests the Government to take the necessary measures to formulate, in collaboration with employers' and workers' organizations, and adopt a national equality policy applicable to all workers aimed at eliminating discrimination in employment and occupation on all the grounds covered by the Convention. The Committee requests the Government to communicate the information on the content of this policy and its implementation.*

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

## Plurinational State of Bolivia

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1973)**

*Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* In its previous comments, the Committee requested the Government to provide information on any developments in the adoption of the preliminary draft amendment to the General Labour Act of 24 May 1939 (or the Government's proposed text for a new General Labour Act), to give full effect to the principle of the Convention, as enshrined in the 2009 Political Constitution (article 5(V)): "the State shall promote the integration of women into work and shall ensure that women receive the same remuneration as men for work of equal value, in both the public and private sectors". The Committee notes the Government's indication in its report that the Government's proposal to reform the General Labour Act has been ready for several years. It has not been adopted due to disagreement between workers' representatives, and the Government is awaiting a general consensus. In this respect, the Committee wishes to recall that the Convention acknowledges that employers' and workers' organizations must have a key role in its implementation if it is to be effective (see the 2012 General Survey on the fundamental Conventions, paragraph 655). The Committee trusts that the Government will maintain social dialogue with employers' and workers' organizations with a view to ensuring that the Government's proposed text for the new General Labour Act gives full effect to the principle of equal remuneration for men and women for work of equal value, in accordance to article 48 of the Constitution and with the Convention. *The Committee once again requests the Government to take the necessary measures to ensure that the Government's proposed text for the new General Labour Act is adopted in the near future and that it gives full effect to the Convention. Meanwhile, the Committee requests the Government to provide information on the proactive measures adopted to give effect to the principle, for example, regular awareness-raising campaigns and information for the general public, the promotion of clauses on equal remuneration for men and women for work of equal value or the promotion of methods to measure and compare the value of different jobs.*

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

## Cabo Verde

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1979)**

*Articles 1 and 2 of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* For many years now, the Committee has been drawing the Government's attention to the fact that article 62 of the Constitution, which provides that men and women shall receive "equal remuneration for equal work", and section 16 of the Labour Code, which provides that all workers have the right to fair remuneration according to the nature, quantity and quality of work, are inadequate to ensure the full application of the principle of equal remuneration for men and women for work of equal value set out in the Convention. The Committee notes the Government's general statement, in its report, that this issue might be proposed for inclusion on the agenda for public discussion regarding a potential revision of the Constitution. The Government adds that, as a consequence, section 16 of the Labour Code might be amended in order to fully reflect the principle of the Convention. The Committee takes note of Judgment No. 233/15-16 of March 2016, forwarded by the Government, according to which, pursuant to article 62 of the Constitution, equal remuneration should be

ensured to workers for equal work, being interpreted as an identical type of activity and seniority. Drawing the Government's attention to the fact that such interpretation is narrower than the principle set out in the Convention, the Committee notes that, in the framework of the Universal Periodic Review, the United Nations Human Rights Council also recommended that the Government fully incorporate into its national legislation the principle of equal pay for men and women for work of equal value, in line with the ILO Conventions (A/HRC/39/5, 9 July 2018, paragraph 112). It observes however that the Government stated in this regard that its understanding was that this principle is already contained in article 62 of the Constitution and section 16 of the Labour Code (A/HRC/39/5/Add.1, 13 September 2018, page 3). The Committee once again draws the Government's attention to the fact that the provisions of the Constitution and the Labour Code are not sufficient to ensure the full application of the principle enshrined in the Convention, as they do not encompass the concept of "equal value" and may therefore hinder progress in eliminating gender-based pay discrimination. It recalls that the concept of "work of equal value", as provided for in the Convention, is fundamental to tackling occupational gender segregation in the labour market, as it permits a broad scope of comparison, including, but going beyond equal remuneration for "equal", "the same" or "similar" work, and also encompassing work of an entirely different nature (as men and women typically do not perform the same work), which is nevertheless of equal value. Moreover, while criteria such as quality and quantity of work may be used to determine the level of earnings, the use of only these criteria is likely to have the effect of impeding an objective evaluation of the work performed by men and women to determine the value of such work, comparing a wider range of factors which are free from gender bias, such as skill, effort, responsibilities and working conditions (see the 2012 General Survey on the fundamental Conventions, paragraphs 672–675). ***The Committee urges the Government to take the necessary steps to: (i) 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 order to cover not only situations where men and women are performing the same or similar work, but also situations where they carry out work that is of an entirely different nature, but is nevertheless of equal value; and (ii) provide information on any progress made in this regard, as well as on any awareness-raising activities carried out with respect to the implementation of the principle of the Convention, including in collaboration with employers' and workers' organizations. Noting that the Government does not provide information on the practical application of section 15(1)(b) of the Labour Code, which provides that "equity at work" includes the right to receive a special compensation which is not allocated to all workers, but which is based, among other grounds, on sex, the Committee again asks the Government to indicate the manner in which this provision is implemented in practice.***

***Articles 1 and 2. Gender wage gap and occupational gender segregation.*** Referring to its previous comments concerning the occupational gender segregation of the labour market and the lack of data on the distribution of men and women and their respective earnings in the public and private sectors, the Committee notes the Government's general statement that there is no gender disparity in wages or career advancement, but that the labour market remains highly gender segregated, with women still being over-represented in determined sectors, such as domestic work, trade and education, while men are employed in construction and agriculture. The Committee notes that, according to the National Institute of Statistics (INE), in 2017, women only represented 44.2 per cent of the employed population (compared to 55.8 per cent of men) and that the employment rate of women decreased from 48 per cent in 2016 to 45.5 per cent in 2017 (compared to 58.5 per cent for men). It notes that the employment rate of women in rural areas was particularly low (32.2 per cent compared to 51.7 per cent in urban areas) and remained substantially lower than that of men (51.5 per cent in rural areas). It further notes the Government's indication that 52.4 per cent of public administration employees are women but that there are no available data on the average wage for men and women.

The Committee notes that UN Women recently highlighted that the informal sector is large, possibly as high as 59 per cent, with women comprising a majority of informal economy workers (Country Gender Profile, January 2018, page 17). It notes that, according to a survey on the informal sector in Cabo Verde, carried out in February 2017 by the Cape Verdean Institute for Gender Equality (ICIEG), in 2015, women represented 58.8 per cent of all workers in the informal economy and owned 62.2 per cent of informal production units. The Committee also notes that, according to the survey, in the informal economy, the average monthly wage of women is 29.5 per cent lower than that of men. It further notes the Government's statement that an analysis of the average monthly wage shows that the earnings of half of working women are about 1,000 Cape Verdean Escudos (CVE) less than the average monthly wage, while half of men earn about CVE2,000 more than the average wage. The Committee notes that, in its 2018 concluding observations, the UN Committee on Economic, Social and Cultural Rights (CESCR) expressed concern at the wide and persistent wage gap between men and women, the vertical and horizontal segregation in the labour market and the high proportion of women in precarious employment situations. Moreover, the CESCR indicated that women being predominantly involved in the informal economy, they are as a consequence less likely to be covered by contributory social security schemes and more likely to receive non-contributory social pensions, which currently cover only 20 per cent of the subsistence minimum. Women therefore have lower incomes and lower pensions, making them particularly vulnerable to poverty, especially in old age (E/C.12/CPV/CO/1, 27 November 2018, paragraph 26). ***In light of the substantial gender wage gap and the lack of legislation that fully reflects the principle of the Convention, the Committee urges the Government to: (i) strengthen its efforts to take proactive measures, including in collaboration with employers' and workers' organizations; (ii) 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; and (iii) provide information on the measures taken to effectively address the gender wage gap by identifying and addressing the underlying causes of pay differentials, such as occupational gender segregation and gender stereotypes, covering***

*both the formal and informal economy, and by promoting women's access to a wider range of jobs with career prospects and higher pay, in particular in rural areas. Noting that the Government is in the process of developing, in collaboration with the ILO, a National Strategy for 2017–20 to encourage the transition from informal to formal employment, which will be especially important for women, the Committee asks the Government to provide information on any progress made in the adoption and implementation of this strategy. It also asks the Government to provide statistical information on the earnings of men and women, in both the public and private sectors, disaggregated by sector of economic activity and occupation.*

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1979)***

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Direct and indirect discrimination.* Since 2011, the Committee has been drawing the Government's attention to the fact that section 15(1)(a) of the Labour Code does not provide for protection against discrimination on the ground of national extraction, nor does it define and prohibit indirect discrimination in employment and occupation. It previously noted that, despite the amendment of the Labour Code in 2016 (Legislative Decree No. 1/2016), the Government did not take the opportunity to give effect to the comments previously made by the Committee on this issue. The Committee notes the Government's repeated statement that while domestic law does not expressly prohibit discrimination on the basis of national extraction, such discrimination falls within the scope of Article 24 of the Constitution which prohibits discrimination on the basis of "lineage" and "origin". The Committee notes in this regard that in the framework of the Universal Periodic Review, the Human Rights Council also recommended that the Government ensure the protection of workers against discrimination on the grounds of national origin (A/HRC/39/5, 9 July 2018, paragraph 112). It also notes that, in its 2018 concluding observations, the UN Committee on Economic, Social and Cultural Rights (CESCR) expresses concern at the lack of comprehensive anti-discrimination legislation and recommended the adoption of such legislation prohibiting all forms of discrimination, including indirect discrimination (E/C.12/CPV/CO/1, 27 November 2018, paragraphs 16 and 17). ***The Committee again urges the Government to take the necessary steps to ensure that workers are protected against discrimination on the ground of national extraction, as well as against indirect discrimination, in law and in practice, and to provide information on any progress made in this regard. It also asks the Government to provide information on the manner in which the grounds of "lineage" and "origin" provided for in Article 24 of the Constitution have been interpreted in practice, by providing a copy of any relevant judicial decisions issued in this regard.***

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

## **Cameroon**

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1970)***

The Committee notes the observations of the General Union of Workers of Cameroon (UGTC) received in 2018.

*Articles 1(b) and 2(2)(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee previously noted that section 61(2) of the Labour Code, which makes payment of an equal wage contingent on there being "equal conditions of work and skill", was too restrictive to give effect to the concept of "work of equal value", which must enable comparisons of types of work that are completely different. In this regard, the Committee notes the Government's indication in its report that this issue will be raised in the context of the ongoing revision of the Labour Code. ***The Committee once again requests the Government to take steps without delay to ensure that the legislative provisions reflect the principle of equal remuneration for men and women for work of equal value, as established by the Convention, and to provide information of any progress in this regard.***

*Articles 2(2)(c) and 4. Collective agreements. Cooperation with social partners.* In its previous comments, the Committee repeatedly asked the Government to provide information on the measures taken to remove discriminatory clauses from collective agreements (in particular clause 70 of the Cameroon Railway Company (CAMRAIL) collective agreement). It notes the Government's indications that measures have been taken to suggest to the competent authorities that they amend the CAMRAIL collective agreement. ***Noting that there is no indication in the Government's report that the CAMRAIL collective agreement has actually been amended, the Committee requests the Government to cooperate with the social partners to ensure that the collective agreements in force, including the CAMRAIL collective agreement, do not contain any discriminatory provisions and to provide information regarding any developments in this regard.*** In its previous comments, the Committee also asked the Government to encourage the social partners to negotiate collective agreements in the light of the principle of equal remuneration for men and women for work of equal value. The Committee notes the observations of the UGTC and the Government's indication that collective agreements have been negotiated and adopted in accordance with this principle. The Committee notes in particular the adoption in 2017 of the national collective agreement for insurance and the national collective agreement for commerce, but observes that these do not contain any explicit provisions on the principle of equal pay. In this regard, the Committee recalls that, even where the State does not intervene in the wage-fixing process, it must promote the full application of the principle established by the Convention by taking vigorous and proactive measures and it must act in good faith (see the 2012 General Survey on the fundamental Conventions,

paragraphs 669–670). *The Committee therefore requests the Government to provide information on the proactive measures adopted or envisaged, according to the national context, to give effect to the principle of equal remuneration in the context of negotiation of collective agreements, for example by developing a standard clause on equal remuneration for men and women for work of equal value for inclusion in all collective agreements.*

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1988)***

The Committee notes the observations from the General Union of Workers of Cameroon (UGTC) received in 2018. It also notes the adoption of Act No. 2016/007 of 12 July 2016 issuing the Penal Code.

*Articles 1(1)(a) and 3(b) of the Convention. Definition and prohibition of discrimination Legislation.* In its previous comments, the Committee asked the Government to take the necessary steps to include provisions in the national legislation that define and explicitly prohibit discrimination. In this regard, the Committee notes that the Government once again indicates in its report that this matter will be addressed in the context of the revision of the Labour Code, which has been under way for many years. However, the Committee notes section 242 of the new Penal Code, which punishes any refusal of access to employment on the basis of race, religion, sex or medical status, where that status does not endanger anyone. The Committee welcomes the fact that this section adds sex and medical status to the list of prohibited grounds. However, it notes that it does not reproduce all the grounds of discrimination listed in *Article 1(1)(a)* of the Convention and that it only covers access to employment and not all aspects of the employment cycle (access to vocational training and conditions of employment). The Committee once again underlines the importance of a clear and comprehensive definition of what constitutes discrimination in the legislation. Noting that criminal proceedings require a higher burden of proof, the Committee recalls that the establishment of easily accessible dispute resolution procedures (in addition to criminal proceedings) can make an effective contribution to combating discrimination (see 2012 General Survey on the fundamental Conventions, paragraphs 792 and 855). It takes the opportunity to emphasize that, under the terms of Paragraph 33 of the HIV and AIDS Recommendation, 2010 (No. 200), the presence of a person living with HIV should not be considered a workplace hazard and that, in this context, the addition of the expression “where that status does not endanger anyone else” is superfluous and might even be used in practice to justify discrimination which is actually based on prejudice regarding modes of contamination. *In view of these elements, the Committee once again requests the Government to consider the possibility of introducing provisions in the labour legislation explicitly defined and prohibiting all forms of discrimination based on at least all the grounds listed in the Convention (race, colour, sex, political opinion, religion, national extraction and social origin) and on any other grounds of discrimination that it considers useful to add, in all aspects of employment, and to provide information on the application of this provision in practice, particularly in relation to cases of discrimination based on the real or perceived HIV status of a candidate for a job or occupation. The Committee requests the Government to provide information on the application in practice of section 242 of the new Penal Code (number of complaints on this basis).*

*Article 2. National equality policy.* In its previous comments, the Committee asked the Government to take steps to formulate and implement a national equality policy including action plans or programmes and specific measures. The Committee notes that, with regard to discrimination on the basis of sex, the Government once again refers to the adoption of a national gender policy combined with a multi-sectoral implementation plan of action, but does not provide any details of their content or effectiveness. However, the Committee notes a number of initiatives referred to by the Government, namely: the existence of a tripartite national committee on gender attached to the Prime Minister’s Office; the creation of a professional master’s degree in “gender and development” at the University of Yaoundé 1 to provide training for professionals in these matters; the revision of training curricula in secondary and higher education on the issue of gender equality; and the setting up of reception centres for women in distress, as well as “gender desks” at the General Delegation for National Security. While noting this information, the Committee recalls that the implementation of a national equality policy presupposes the adoption of a range of specific measures which it evaluates on the basis of their effectiveness. It also recalls that it is essential to ensure that the implementation of the national policy covers all the grounds of discrimination prohibited by the Convention (see 2012 General Survey, paragraphs 847–849). *The Committee once again requests the Government to take steps to formulate and implement a national equal opportunity and treatment policy which is in line with the provisions of the Convention. It also requests the Government to provide detailed information on the national gender policy and the multi-sectoral implementation plan of action to which it refers in its report.*

*Articles 1(1)(a) and 3(c). Discrimination on the basis of sex. Legislation.* In its previous comments, the Committee noted that section 74(2) of Ordinance No. 81-02 of 29 June 1981, governing civil status and establishing various provisions concerning the status of natural persons, gives a husband the right to object to his wife working. It notes the Government’s indication that it is committed to launching a debate on the provisions of section 74(2) and that these provisions are not applied in practice. *The Committee once again urges the Government to take specific measures to remove section 74(2) of Ordinance No. 81-02 and generally any provision that has the effect of nullifying or impairing equality of treatment for women in employment and occupation.*

*Article 5. Special protection measures. Resolutions on women’s employment.* In its previous comments, the Committee noted that Order No. 16/MLTS of 27 May 1969 establishes a list of types of work which are prohibited for

women. It recalls that protective measures for women may be broadly placed in 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 of their capabilities and appropriate role in society. The latter are contrary to the Convention and constitute obstacles to the recruitment and employment of women (see 2012 General Survey, paragraph 839). ***In light of the above, the Committee once again requests the Government to take steps to review Order No. 16/MLTS of the national legislation and more generally to 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 is raising other matters in a request addressed directly to the Government.

## Congo

### ***Equal Remuneration Convention, 1951 (No. 100) (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.

*Articles 1 and 2(a) of the Convention. Principle of equal remuneration for men and women workers for work of equal value. Laws and regulations.* The Committee recalls that, since 2005, it has been drawing the Government's attention to the need to amend sections 80(1) and 56(7) of the Labour Code, which limit the application of the principle of equal remuneration to the existence of "equal working conditions, qualifications and output" (section 80(1)) or to "equal work" (section 56(7)), and do not reflect the notion of "work of equal value". The Committee notes that the Government reaffirms that amendments to sections 80(1) and 56(7) of the Labour Code are envisaged to ensure that the concept of "work of equal value" is binding. ***Noting the Government's commitment, the Committee requests it to ensure, within the framework of the ongoing revision of the Labour Code, that the principle of equal remuneration for men and women workers for work of equal value set out in the Convention is set out in the Labour Code.***

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.***

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (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.

*Articles 1–3 of the Convention. Protection against discrimination. Legislation.* For many years the Committee has been emphasizing the shortcomings in the Labour Code and the General Civil Service Regulations regarding the protection of workers against discrimination, since these texts do not cover all of the grounds of discrimination or all the aspects of employment and occupation set out in the Convention. The Committee recalls that the Labour Code only covers the grounds of "origin", gender, age and status in relation to wage discrimination (section 80) and the grounds of opinion, trade union activity, membership or not of a political, religious or philosophical group or a specific trade union in relation to dismissal (section 42). The General Civil 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). The Committee notes the Government's indication that a preliminary draft of a new Bill amending and supplementing certain provisions of the Labour Code will take into account the grounds of discrimination set out in *Article 1(1)(a)*. ***The Committee asks the Government to ensure that, within the framework of the ongoing revision of the Labour Code, discrimination on all of the grounds set out in the Convention is explicitly prohibited, as well as discrimination on any other grounds which it considers appropriate to include in the Code, at all stages of employment and occupation, including recruitment. The Committee also asks the Government to take the necessary measures to amend the provisions of the General Civil Service Regulations in order to ensure that civil servants are protected as a minimum in relation to the grounds set out in Article 1(1)(a) in respect of all aspects of employment, including recruitment and promotion. The Committee also requests the Government to provide information on any legislative developments in this respect.***

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Committee notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed deep concern at the high prevalence of violence against women and girls, especially sexual harassment at school and at work, the delay in adopting a comprehensive law to combat all forms of violence against women and the lack of awareness regarding this issue and of reporting of gender-based violence (CEDAW/C/COG/CO/6, 23 March 2012, paragraph 23). The Committee notes the Government's indication that, since 2011, the new draft Bill amending and supplementing certain provisions of the Labour Code has contained provisions against sexual harassment. ***The Committee once again asks the Government to ensure that provisions covering both quid pro quo harassment and sexual harassment which creates a hostile, intimidating or offensive environment are adopted and that they protect the victims of sexual harassment and establish penalties for the perpetrators. The Committee also asks the Government to take steps, in collaboration with employers' and workers' organizations, to prevent and combat sexual harassment, such as awareness-raising measures for employers, workers and educators as well as for labour inspectors, lawyers and judges, and to establish information systems and complaints procedures which take into account the sensitive nature of this issue in order to bring an end to these practices and allow victims to exercise their rights without losing their jobs.***

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

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1960)**

*Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value. Legislation.* The Committee has been referring for nearly three decades to the need to amend article 57 of the National Constitution, which provides that; “Wages shall always be equal for equal work under identical conditions of efficiency”, and section 167 of the Labour Code, which provides that “Equal wages shall be paid for equal work performed in the same job and under equal conditions of efficiency and working time, including daily payments, remuneration received, services such as housing and any other benefits granted to workers in exchange for their regular work.” The Committee recalls that the principle of equal remuneration for equal work set out in these legislative provisions is more limited than the principle of equal remuneration for men and women for work of equal value provided for in the Convention. The Committee notes the Government’s indication in its report that these regulatory provisions define qualities and characteristics that respect the principle of the Convention, as they were developed on the basis of objective criteria, and divided into occupational profiles that include jobs of an entirely different nature with no distinction of any kind. The Government adds that the above-mentioned occupational profiles are based on a detailed study and in accordance with specific labour conditions, considering various aspects, including environmental factors, complexity, difficulty, responsibility, consequences of errors, required experience and risk. In this respect, the Committee wishes to stress that, whatever the methods used for the objective evaluation of jobs, special care must be taken to guarantee that they are free from gender bias. It is important to ensure that the selection of factors for comparison, the weighting of those factors and the comparison itself are not discriminatory, whether directly or indirectly. Often, capacities considered to be “feminine”, such as manual dexterity and skills related to caring for people, are undervalued or not even taken into account, in comparison with traditionally “masculine” capacities, such as the handling of heavy objects. ***Noting with regret that section 167 of the Labour Code has still not been amended, the Committee urges the Government to take the necessary measures to give full legislative expression to the principle of equal remuneration for men and women for work of equal value, and to ensure that the methods of evaluation adopted are free from gender bias.***

*Articles 1 and 2. Gender pay gap and occupational segregation.* In its previous comments, the Committee referred to the significant pay gap (20 per cent on average, and up to 39 per cent in certain sectors, such as manufacturing), and the high level of occupational segregation on the basis of gender that exists in the country. In this respect, the Committee notes that the Government has provided information on the current trends in the gender pay gap by branch of economic activity and level of employment, which shows that, with regard to horizontal segregation, in 2017 in service activities, for each Costa Rican colon (CRC) earned by a woman, a man earned CRC1.88, meaning that men earned 88 per cent more than women in the same branch of economic activity. Similarly, in sectors such as agriculture, forestry, fishing and manufacturing, the wage gaps were CRC1.16 and CRC1.23 in the same period. Regarding vertical segregation by occupational group, in 2017, for directors and managers the gap was CRC1.42, for professionals and scientists it was 1.02 and for officials and workers it was 1.43. Furthermore, the Confederation of Workers Rerum Novarum (CTRN), the Costa Rican Workers’ Movement Confederation (CMTC) and the Juanito Mora Porras Trade Union Federation (CSJMP), report that a woman with a postgraduate degree barely earns the average salary of a man with an undergraduate degree. The Government indicates that the explanation for this gap lies in the low representation of women in the above-mentioned sectors and groups. The Committee notes that the Government recognizes these differences and indicates that it is taking measures to address them. Among those measures is the Plan of Action and Public Policy for Gender Equality and Equity (PIEG), the second Institutional Plan of Action for Gender Equality and Equity (2016–20) and the gender equality label and the award for good labour practices for gender equality. In 2017, the first label was granted and 15 awards for good gender equality practices were issued. The foundations are also being laid for the implementation of the National Policy for Effective Equality between Women and Men in Costa Rica (2018–30). Furthermore, the Committee notes that in April 2019, the State ratified the Inter-American Convention Against All Forms of Discrimination and Intolerance. The Committee observes that, despite all these initiatives, the figures provided by the Government between 2010 and 2017 demonstrate a consistent gender pay gap. The Committee further notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), in its concluding observations, expressed concern about the persistence of occupational segregation, the concentration of women in low-paid jobs and the significant gender wage gap (document CEDAW/C/CRI/CO/7, 24 July 2017, paragraph 28(a)). ***Under these conditions, the Committee requests the Government to provide detailed information on the specific measures adopted or envisaged to more effectively address the structural causes of wage gaps between men and women and to promote the principle of the Convention. In this respect, the Government is requested to provide information on the impact in practice of the activities undertaken to reduce wage gaps between men and women, such as education and training measures for women to enable them to access a wider range of jobs with career prospects and higher salaries, including in sectors dominated by men. The Committee requests the Government to continue providing detailed statistical information on the levels of remuneration in the various economic sectors, disaggregated by sex and occupational category, so that it can evaluate the progress made.***

The Committee has also noted that in the list of minimum wages by sector the denominations of occupations are given in a generic masculine form, with the exception of certain occupations, such as hairdresser, maid, secretary, weaver, seamstress, manicurist and child minder, which are expressed in the feminine form. In this regard, the Committee notes the Government’s indication that the National Wage Council 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. *The Committee hopes that the changes will be made without delay and requests the Government to communicate the changes made to the lists of minimum wages that include the removal of the denomination of occupations and jobs with gender connotations.*

*Application in practice.* In its previous comments, the Committee requested the Government to indicate the results of inspections carried out with a gender perspective and to provide information on whether they had detected cases or received complaints of wage discrimination between men and women, and the circumstances, categories of employment and measures adopted in that regard. The Committee refers to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). *Nevertheless, the Committee requests the Government to report whether labour inspectors have detected cases or received complaints of wage discrimination between men and women, with an indication of the categories of employment and the corrective measures adopted in that regard.*

## Croatia

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1991)***

*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 timeframe 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/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.***

## Cuba

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1954)**

*Article 1(a) of the Convention. Definition of remuneration. Legislation.* In its previous comments, the Committee requested the Government to take the necessary steps to complete the definition of remuneration set out in the Labour Code

to align it with *Article 1(a)* of the Convention, in order to ensure that the principle of equal remuneration for men and women for work of equal value applies not only to the wage 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 Government indicates in its report that there have been no legislative reforms on these issues. With reference to the Labour Code (Act No. 116 of 20 December 2013), the Government indicates that: (i) section 2 provides that work shall be remunerated in accordance with its quality and quantity; (ii) section 3 provides for equality between men and women; (iii) section 109 provides that payments considered to be wages shall be paid in cash, which excludes payment in kind or services; (iv) sections 124 and 125 establish other payments that are not considered to be wages as they are not related to the quantity and quality of the work carried out; and (v) section 125 provides that short-term benefits, such as benefits for illness, accident or maternity leave, do not constitute wages because they are paid by the State budget. The Committee recalls that a broad definition of remuneration is necessary due to the fact that 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 (see General Survey of 2012 on the fundamental Conventions, paragraphs 686 and 687). ***In this regard, the Committee once again requests the Government to take the necessary steps to establish a sufficiently broad definition of remuneration, required by Article 1(a) of the Convention in order to ensure that the principle of equal remuneration for men and women for work of equal value applies not only to the wage 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 requests the Government to provide information on progress made in this regard.***

*Article 1(b). Work of equal value. Legislation.* In its previous comments, the Committee requested the Government to take the necessary measures to amend section 2(c) of the Labour Code, which provides that "work shall be remunerated without any form of discrimination in accordance with the products and services it generates, quality and the time actually worked, and shall be governed by the principle of socialist distribution of each according to his or her ability and each according to his or her work", in order to give full expression to the principle of equal remuneration for men and women for work of equal value. In that regard, the Government indicates that jobs that give preference to men or to women do not exist in Cuba and that the basic wage is applied equally, so that differentiated wage scales are not required. It adds that women therefore enjoy full equality, and legislative reform is not justified. Furthermore, the Government indicates that women know their employment and social security rights. In that regard, the Committee observes that section 2(c) of the Labour Code contains a narrower definition than the principle set out in the Convention, as do the provisions of article 4 of the new Constitution (adopted in 2019) which sets out the principle of "each according to his or her capacity and each according to his or her work". Article 65 of the Constitution defines remuneration as being in accordance with the quality and quantity of the work and provided in relation to the requirements of the economy and of society, the choice of the worker and his or her skills and ability. In addition, equality between men and women is guaranteed under articles 41, 42, 43 and 44 of the Constitution. The Committee notes that neither the Labour Code nor the Constitution include the concept of "equal value", which would make it possible to compare jobs that, notwithstanding their differences, are of equal value. Similarly, it notes that the Committee on the Elimination of Discrimination against Women (CEDAW) of the United Nations observed with concern that the Code does not contain any provision on the principle of equal pay for work of equal value (CEDAW/C/CUB/CO/7-8, paragraphs 32 and 33(a) and (c)). In this regard, 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, 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 General Survey of 2012 on the fundamental Conventions, paragraphs 672–675). The Committee recalls that it is essential to acknowledge that no society is free from discrimination and, in particular, that occupational sex segregation in the labour market is a problem that affects almost all countries. ***The Committee once again requests the Government to: (i) adopt the necessary measures to amend section 2(c) of the Labour Code, so as to give full expression to the principle of equal remuneration for men and women for work of equal value set forth in Article 1(b) of the Convention; and (ii) provide information on all measures adopted to this end.***

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)***

The Committee notes the observations of the Independent Trade Union Association of Cuba (ASIC), received on 19 September 2018, and the Government's reply.

*Article 1 of the Convention. Grounds of discrimination. Legislation.* In its previous comments, the Committee noted that the Labour Code of 2013 (Act No. 116 of 20 December 2013), unlike the previous Labour Code (of 1984), does not include the prohibition of discrimination on the basis of race, political opinion, national extraction or social origin. It asked the Government to take the necessary steps to amend the Labour Code of 2013 to explicitly prohibit discrimination on those grounds, and to provide information on any developments in this respect. The Committee notes that a new Constitution was adopted in February 2019. It welcomes the incorporation into Article 42 of elements that expand the legal formulation of the principle of equality, prohibiting discrimination on the basis of sex, sexual orientation, gender identity,

age, ethnic origin, skin colour, religious belief, disability, national or regional origin, or any other personal condition or circumstance implying a distinction injurious to human dignity. In this regard, the Committee notes in particular that the new Constitution expressly prohibits discrimination on the basis of ethnic, national or regional origin. However, the Committee observes that, unlike in the previous Constitution (of 1976), discrimination on the basis of race, political opinion or social origin is not explicitly prohibited in the new Constitution or in the Labour Code of 2013. However the Committee observes that section 295(1) of the Penal Code makes discrimination on grounds of sex, race, colour or national origin an offence against the right to equality. The Committee wishes to underline the fact 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 (see the 2012 General Survey on the fundamental Conventions, paragraph 853). The Committee recalls the Government's previous indication that political opinion is used only for the purpose of registration and consultation for employment, promotion and training and performance evaluation. ***The Committee requests the Government to take the necessary steps to ensure that the legislation expressly prohibits discrimination on the grounds of political opinion or social origin in employment and occupation, and to report the measures taken to guarantee that, in practice, no information is sought on the political opinion of the workers or students. The Committee also requests the Government to confirm that the grounds of ethnic, national and regional origin cover the ground of national extraction expressly referred to in the Convention***

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* In its previous comments, the Committee requested the Government to take the necessary steps to ensure that the legislation (the Labour Code and its regulations) includes a provision clearly defining and prohibiting all forms of sexual harassment in employment and occupation, both *quid pro quo* and hostile work environment harassment, and to provide information on the progress made in this regard. The Committee also requested that the Government provide information on any other measures taken for the purpose of preventing sexual harassment in the workplace. In addition the Committee requested the Government to continue to provide information on the number of complaints of sexual harassment in employment and occupation filed with the Office of the Prosecutor-General and the labour inspectorate, and on the number of cases examined by the judiciary, the action taken on the complaints, any penalties imposed and compensation awarded. The Committee notes the Government's statement that the prevention of sexual harassment is guaranteed under the Labour Code, which provides that the employer shall be responsible for the direction and organization of the work process and its supervision. The employer is therefore required to ensure that workers are aware of their functions and duties, guarantee adequate working conditions and the enjoyment of rights, and establish appropriate industrial relations by taking into account the views of workers and their complaints, the protection of their physical and psychological well-being, and respect for their dignity. The Committee also notes that the Government reports that: (i) the National Labour Inspection Office did not receive any complaints of sexual harassment in 2017 and nor did the Office of the Prosecutor-General in that regard in 2018; and (ii) on July 1 2017, the National Assembly of the People's Power approved the concept documents of the Cuban economic and social model of socialist development (Economic and Social Policy Guidelines for the Party and the Revolution), and the Outline of the National Plan for Economic and Social Development until 2030. The concept document states that the "Socialist State is the guarantor of equality and is founded on the following principles: moral and legal recognition of the equality of citizens' rights and duties, and the guarantees that they are given effect to with equity, inclusion, social justice, political participation, the narrowing of social gaps, respect for diversity and the fight against all forms of discrimination based on skin colour, gender, gender identity, sexual orientation, disability, territorial and national origin, religious belief, age and any other distinction detrimental to human dignity". Noting that the Government's report does not provide information on the exact use of a legislative definition of sexual harassment, the Committee recalls 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 (see 2012 General Survey, paragraph 791). In addition, the Committee considers that, while the legal prohibition of sexual harassment is an essential step to eliminate such behaviour, it is important to adopt practical and effective measures for its prevention, detection and punishment. ***The Committee once again requests the Government to: (i) take the necessary steps to ensure that the legislation includes a provision clearly defining and prohibiting all forms of sexual harassment in employment and occupation, both quid pro quo and hostile work environment sexual harassment; (ii) provide information on progress made in this regard; (iii) report the manner in which employers are encouraged to adopt the preventive measures established in the Labour Code and any other measures taken for the purpose of preventing sexual harassment in the workplace (such as awareness-raising campaigns for employers and workers, and training to inform them of the legislative provisions relating to sexual harassment and identification of this behaviour); and (iv) continue to provide information on the number of complaints of sexual harassment in employment and occupation made to the Office of the Prosecutor-General and the labour inspectorate, as well as on the number of cases examined by the courts, the penalties imposed and compensation awarded.***

*Discrimination on the ground of political opinion.* The Committee notes that ASIC alleges discrimination on political grounds through the practice of declaring citizens "unreliable" or "unsuitable" on the basis of their refusal to belong to any government-backed organization, resulting in them being considered a "pre-criminal social risk", which can lead to being liable to imprisonment, and also alleges that a certain physical appearance is needed to gain access to employment. In this regard, the Committee notes that the denial by the Government that discriminatory measures are added for political reasons and states that no persons have been detained for exercising freedom of expression and opinion within the limits set out by the national legislation. The Government affirms that employment relationships are governed by the principle of the

suitability for entering and remaining in employment, for promotion and training, as well as the efficiency, quality and productivity of the worker, and it adds that the qualifications and diplomas required for workers are determined by mutual consent between the employer and the trade union in the collective labour agreement. It reports that self-styled “independent journalists” have been an instrument used by foreign campaigns of subversion and aggression against the country and that these individuals do not have an employment relationship with the press sector in the country and do not have the professional training for that occupation. The Government indicates that the Ministry of Labour and Social Security (Ministry of Labour) consulted the Department of Identification, Immigration and Foreign Nationals of the Ministry of the Interior, and established that one of the above-mentioned persons does not appear in its database and another was authorized to work on their own account from 14 March 2011 until 22 May 2013, but that this authorization was withdrawn for failure to fulfil tax obligations. The person in question continued to work without authorization and therefore incurred a fine. Because of repeated refusal to pay the fines, this person was imprisoned for ten months by the competent court, the legal guarantees having been duly observed. The Government concludes that in Cuba nobody can be penalized for exercising the right to freedom of opinion or expression, and journalism is not defined as a crime. The Committee also notes that the Government states that all citizens have the right to bring actions before the competent authorities for recognition and observance of their labour and social security rights, and that the Public Prosecutor’s Office examines citizens’ complaints regarding violations of their rights (Act No. 83 of 11 July 1997). The Government adds that access to the People’s Courts is free of charge (Act No. 82 of 11 July 1997), and that the Ministry of Labour handles complaints of this type through the Public Welfare Office. **The Committee requests the Government to provide information on any decisions issued by the courts, the Public Welfare Office at the Ministry of Labour and Social Security any other competent body, and also on any offence reported by or to labour inspectors, and to indicate what follow-up action has been taken in cases of discrimination involving political opinion.**

*Definition and prohibition of direct and indirect discrimination.* The Committee notes the Government’s indication in its report, in reply to the Committee’s request to amend the Labour Code to define and explicitly prohibit direct and indirect discrimination on at least all the grounds specified in *Article 1(1)(a)* of the Convention, that the Labour Code of 2013 is the result of a broad consultation process in which workers’ and employers’ organizations participated and hence the interpretation of the concept of discrimination should occur in the widest sense, and that the reference in the Labour Code to any type of discrimination covers direct and indirect discrimination. The Committee recalls that this concept is essential to identify and address situations in which certain treatment is extended equally to everybody, but leads to discriminatory results for one particular group, such as women, ethnic and religious groups, or persons of a certain social origin. The Committee further indicates that, with respect to specific groups, such discrimination is subtle and less visible, making it even more important to ensure that there is a clear framework for addressing it, and proactive measures are required to eliminate it (see 2012 General Survey, paragraph 746). **The Committee once again requests the Government to take the necessary steps to amend the relevant legislation to define and explicitly prohibit direct and indirect discrimination on at least all the grounds specified in Article 1(1)(a) of the Convention and to provide information on any developments in this respect.**

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

## Cyprus

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** **(ratification: 1968)**

*Articles 2 and 3 of the Convention. Equality of opportunity and treatment for men and women.* The Committee previously noted the persistent horizontal and vertical gender segregation in employment, in particular in the private sector – despite the various measures implemented. The Committee notes the Government’s statement, from the report submitted in the context of the Universal Periodic Review (UPR), that it will prioritize the protection and promotion of women’s rights and gender equality via the implementation of the New National Action Plan for Gender Equality 2018–2021 which focuses primarily on protecting and empowering vulnerable groups of women (A/HRC/WG.6/32/CYP/1, 13 November 2018, paragraphs 5 and 11). Concerning the measures implemented to address occupational gender segregation, the Committee notes, from the statistical information provided by the Government, that the proportion of women participating in Human Resources Development Authority (HRDA) Programmes remained stable from 2014 to 2017, reaching 41.2 per cent in 2017 (compared to 58.8 per cent of men). It observes however that the HRDA training specifically aiming at the improvement of the employability of inactive women was discontinued in 2016 while the unemployment rate of women remains higher than that of men (9.9 per cent for women compared to 7.7 per cent for men in 2019). The Committee also notes that, according to the Labour Force Survey (LFS) of the Statistical Service of Cyprus (CYSTAT), for the first quarter of 2019, the employment rate of women was still substantially lower than that of men (52.2 per cent for women compared to 63.4 per cent for men), with women being under-represented in senior and decision-making positions (women represented only 16.9 per cent of managers in 2018) and still mainly concentrated in specific sectors, such as education (74.4 per cent of women) and human health and social work activities (71.6 per cent of women). The Committee further notes that, in their concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) and the United Nations Committee on Economic, Social and Cultural Rights (CESCR) expressed concern about: (i) the

concentration of girls in traditionally female-dominated fields of study and career paths and their under-representation in vocational training and in certain fields of higher education, including technology and engineering; (ii) the high number of girls who suffer from discrimination and sexual harassment in schools; (iii) the large gender disparity in the labour market and more particularly the disproportionately high unemployment rate among women, including young and highly educated women and the low number of female entrepreneurs compared with their male counterparts; (iv) the continuing horizontal and vertical occupational sex segregation; (v) the under-representation of women in decision-making positions both in the public and private sectors, and the concentration of women in part-time and low-paid jobs; as well as (vi) the large and persistent gender pay gap, particularly in the private sector (CEDAW/C/CYP/CO/8, 25 July 2018, paragraphs 24, 34–37 and 42; and E/C.12/CYP/CO/6, 28 October 2016, paragraphs 17–19). The Committee notes that, in April 2019, the Human Rights Council, in the context of the UPR, also expressly recommended that there was a need to: (i) increase the level of participation of women in the labour market and enable a balanced representation of men and women at all levels, including at senior and decision-making levels; and (ii) combat gender discrimination in employment (A/HRC/41/15, 5 April 2019, paragraph 139). ***In light of the persistent occupational gender segregation of the labour market, the Committee asks the Government to take the necessary steps, including in collaboration with employers' and workers' organizations, to raise awareness of the principle of equal opportunity and treatment for men and women in employment and occupation and the relevant legislative provisions, assess the measures taken and implemented and, if necessary, take corrective measures. It asks the Government to provide information on any proactive measures implemented, including in the framework of the National Action Plan for Gender Equality for 2018–2021: (i) to effectively enhance women's economic empowerment and access to decision-making positions; and (ii) to address vertical and horizontal occupational gender segregation and gender stereotypes by encouraging girls and women to choose non-traditional fields of study and professions and promoting women's access to a wider range of jobs with career prospects and higher pay. The Committee asks the Government to provide updated statistical information on the participation of men and women in education and training, as well as in employment and occupation, disaggregated by occupational categories and positions.***

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

## El Salvador

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)***

*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 worker's 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.

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1995)***

**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.

## Equatorial Guinea

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2001)**

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 2020, 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 that the Government did not take the opportunity provided by the enactment of the Fundamental Act of Equatorial Guinea, on 16 February 2012, and of the General Labour Reforms Act (No. 10/2012), on 24 December 2012, to address the matters raised by the Committee.

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination.* The Committee notes that section 15 of the Fundamental Act of 2012 (previously section 15 of the Fundamental Act of 1995) provides that any bias or discrimination on tribal, ethnic, gender-related, religious, social, political or any other similar grounds, when duly ascertained, is punishable by law. Further, under section 1(3)(d) of the General Labour (Reforms) Act of 2012 (previously section 1(4) of the General Labour Act, 1990) the State guarantees equality of opportunity and treatment in employment and occupation and provides that no one may be subjected to discrimination, that is, to any distinction, exclusion or preference on grounds of race, colour, sex, political opinion, national extraction, social origin or trade union affiliation. The Committee notes that while section 1(3)(d) of the General Labour (Reforms) Act of 2012, continues to omit reference to religion as one of the prohibited grounds of discrimination, that ground is included in section 15 of the Fundamental Act of 2012. The Committee recalls that where provisions are adopted in order to give effect to the principles in the Convention, they should include at least all of the grounds of discrimination laid down in *Article 1(1)(a)* (see 2012 General Survey on the fundamental Conventions, paragraph 853). *The Committee therefore urges the Government to take steps to add the ground of “religion” to the list of prohibited grounds of discrimination at the earliest opportunity. The Committee once again asks the Government to provide information on the practical application of section 15 of the Fundamental Act of 2012, and of section 1(3)(d) of the General Labour (Reforms) Act of 2012, and to indicate whether any administrative or judicial decisions have been handed down concerning these provisions, and if so, to provide details thereof.*

*Articles 1(1)(b) and 5. Other grounds. Special measures.* The Committee notes that section 1(4) of the General Labour Act of 1990 (now section 1(3)(d) of the General Labour (Reforms) Act of 2012) makes provision for facilitating the recruitment of older workers and those with reduced working capacity. The Committee had previously requested a copy of the National Employment Policy (Reforms) Act No. 6/1999 of 6 December 1999. It notes that section 62 of the National Employment Policy Act No. 6/1992 of 3 January 1992, as amended by the National Employment Policy (Reforms) Act of 1999, provides for the adoption of governmental programmes aimed at promoting employment among workers facing obstacles to entering the labour market, especially young first-time jobseekers, women, men older than 45 years of age and persons with disabilities. *The Government is asked to supply information on the practical application of the abovementioned provisions as it relates to older workers, young first-time jobseekers, and persons with disabilities.*

*Articles 2 and 3. National policy to promote equality of opportunity and treatment.* The Committee recalls that discrimination in employment and occupation is a universal phenomenon that is constantly evolving, and that some manifestations of discrimination have acquired more subtle and less visible forms. It is therefore essential to acknowledge that no society is free from discrimination and that continuous action is required to address it. Moreover, the results achieved in the implementation of the national equality policy and programmes must be periodically assessed so that they can be adapted to the population’s needs, particularly for those groups that are most vulnerable to discrimination (see 2012 General Survey, paragraphs 731 and 847). *The Committee asks the Government to indicate whether it has a national policy designed to promote equality of opportunity and*

*treatment in respect of employment and occupation, and describe how it is implemented (legal procedures, practical measures, etc.) in each of the following spheres: (i) access to vocational training; (ii) access to employment and to particular occupations; (iii) terms and conditions of employment. The Committee asks the Government to take specific steps with a view to assessing the results of the implementation of the national equality policy and to provide information on its impact on the different sections of the population and to supply statistical data disaggregated by sex, race, ethnic origin and religion on employment and vocational training and any other information which would enable the Committee to evaluate more fully the manner in which the Convention is applied in practice.*

*Article 4. Measures affecting individuals suspected of activities prejudicial to the security of the State. The Committee once again asks the Government to provide information concerning the practical application of Article 4 of the Convention, as well as specific information on the procedures establishing the right to appeal to a competent and independent body.*

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

## Eritrea

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2000)**

*Article 1(1) of the Convention. Definition of discrimination. Prohibited grounds of discrimination.* The Committee recalls that it asked the Government to amend the Labour Proclamation, so as to provide explicitly for protection of all workers from discrimination based on national extraction, and to ensure that the draft Civil Service Proclamation prohibits discrimination on all the grounds set out in *Article 1(1)(a)* of the Convention, including national extraction and social origin. The Committee notes the Government's statement that, in consultation with the social partners and other stakeholders, it has been carrying out workshops and seminars to amend both the Labour Proclamation and the draft Civil Service Proclamation. The Committee also notes the Government's indication that adequate provision is made in the draft amendment to the Labour Proclamation, which states that "discrimination means any distinction made through direct or indirect act of the employer on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation". In this regard, the Committee emphasizes that workers should be protected from discrimination not only by employers and their representatives, but also by work colleagues and even clients of enterprises, or other persons in the work context. The Government also reiterates that the draft Civil Service Proclamation states that "decisions regarding employment in the civil service shall be made without discrimination of any kind on the basis of race, ethnic origin, language, colour, sex, religion, disability, political belief or opinion, or social or economic status". In this respect, the Committee recalls that the latter provision does not specifically refer to national extraction or social origin. *Noting with regret that the Committee has been raising this issue for more than ten years and that the draft amendments to the Labour Proclamation have still not been adopted, the Committee urges the Government to take the necessary steps in consultation with the social partners to ensure that amendments are adopted rapidly to the Labour Proclamation so as to provide explicitly for the protection of all workers against discrimination based on national extraction. The Committee asks the Government to take concrete steps to ensure that the draft Civil Service Proclamation includes a clear prohibition of discrimination on the basis of at least all the grounds set out in Article 1(1)(a) of the Convention, including national extraction and social origin.*

*Indirect discrimination.* The Committee once again notes the Government's indication that the provisions in the Labour Proclamation dealing with discrimination are designed to address both direct and indirect discrimination. The Committee notes that the Government refers once again to the proposed amendments to the Labour Proclamation and recalls that it has been raising this issue for more than ten years. The Committee reminds the Government that it is especially important that there is a clear framework for addressing indirect discrimination given its subtle and less visible nature (see the 2012 General Survey on the fundamental Conventions, paragraphs 744–746). *The Committee urges the Government to take concrete steps to ensure that the labour legislation is amended so as to include explicit definitions of direct and indirect discrimination in employment and occupation, and to provide information on any progress made in this regard. The Committee asks the Government to provide information on any cases of indirect discrimination dealt with by the courts and on any steps taken to raise awareness of indirect discrimination among workers, employers and their respective organizations, as well as the public.*

## Eswatini

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1981)**

*Legislative developments.* The Committee recalls that the Government over a period of ten years has repeatedly indicated that a Bill was being prepared in order to fully reflect the principles set out in the Convention. The Committee notes the Government's indication in its report that section 14 of the Employment Bill would amend section 96 of the Employment Act of 1980 which provides for "equal pay for equal work", by defining "work of equal value" as meaning "work in which the duties and services to be performed require similar or substantially similar levels of qualification, experience, skill, effort, responsibility which is performed under similar or substantially similar working conditions". In this regard, the Committee draws the Government's attention to the fact that such definition could unduly restrict the scope of comparison of jobs performed by men and women and recalls that the concept of "work of equal value" as provided for under the Convention is fundamental to tackling occupational gender segregation in the labour market. This concept permits

a broad scope of comparison including, but going beyond, equal remuneration for “equal”, “the same”, or “similar” work, and also encompassing work of an entirely different nature, which is nevertheless of equal value (see General Survey on the fundamental Conventions, 2012, paragraphs 672–675). *The Committee asks the Government to take steps without further delay towards the adoption of the Employment Bill. It trusts that the Government will seize this opportunity to ensure that any new legislation will fully reflect the principle of equal remuneration for men and women for work of equal value enshrined in the Convention, allowing for the comparison not only of work that involves similar or substantially similar qualifications, skills, effort, responsibilities and conditions of work but also of 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: 1981)**

*Legislative developments.* The Committee recalls that the Government over a period of ten years has repeatedly indicated that a Bill was being prepared in order to fully reflect the principles set out in the Convention. The Committee notes the Government’s indication in its report that section 16 of the Employment Bill will complement section 29 of the Employment Act of 1980, by providing for additional grounds of discrimination, such as gender, family responsibilities, ethnic origin, pregnancy or intended pregnancy, sexual orientation, political opinion, social origin, health status, real or perceived HIV/AIDS status, age or disability, conscience and belief. *The Committee asks the Government to take steps without further delay towards the adoption of the Employment Bill. It trusts that the Government will seize this opportunity to prohibit direct and indirect discrimination based on at least all the grounds set out in Article 1(1)(a) of the Convention, concerning all stages of the employment process, while also ensuring that the additional grounds already enumerated in the Employment Act of 1980 are preserved in the new legislation.*

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

## **Ghana**

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1968)**

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, again, the Government’s report contains no information regarding 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 the progress achieved since its ratification. *The Committee hopes that the Government’s next report will contain full information on the matters raised below.*

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls that since the adoption of the Labour Act in 2003, it has been raising concerns regarding sections 10(b) and 68 of the Act, which are set out in terms that are more restrictive than the principle of the Convention, providing for equal remuneration for “equal work”. The Committee notes with *concern* that the Government’s report merely repeats its previous indication that “equal pay for equal work without distinction of any kind” under sections 10(b) and 68 of the Labour Act is synonymous with the principle of equal remuneration for men and women for work of equal value, but provides no details in support of this assertion and gave no indication that jobs of a completely different nature can be compared under the Act. The Committee emphasizes once more 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. Due to historical attitudes and stereotypes regarding women’s aspirations, preferences and capabilities, certain jobs are held predominantly or exclusively by women (such as in caring professions) and others by men (such as in construction). Often “female jobs” are undervalued in comparison with work of equal value performed by men when determining wage rates. The concept of “work of equal value” 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” work, and also encompasses work that is of an entirely different nature, which is nevertheless of equal value (see 2012 General Survey on the fundamental Conventions, paragraphs 672–679). *Consequently, the Committee once again urges the Government to take the necessary measures to amend sections 10(b) and 68 of the Labour Act of 2003, in order 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, and to provide information on any progress made in this regard.*

*Equal remuneration for work of equal value in the public service.* The Committee recalls that a public service pay policy setting out a single spine salary structure was previously adopted and that all public service employees were to be brought under this structure by the end of 2012. The Committee also recalls that the evaluation had been made on the basis of four main job factors (knowledge and skill, responsibility, working conditions and effort) which had been subdivided into 13 subfactors. The Committee notes the documentation provided by the Government in its report, including a table entitled “Single spine salary structure”, a memorandum of understanding between the Fair Wages and Salaries Commission and the social partners, and a White Paper on the single spine pay policy. It notes however that the table “Single spine salary structure” provided does not contain information on the types of jobs that fall within each level of pay and thus does not allow the Committee to assess whether the method of evaluation of jobs used is effectively free from gender bias. *The Committee therefore requests the Government to provide information on how it has classified jobs within the single spine salary structure, in order to allow it to assess the factors used to compare jobs and ensure that they are free from gender bias. Noting the absence of information provided in this regard, the Committee requests once more the Government to provide information on the progress made in covering all public service employees by the single spine salary structure, and how this has impacted on the relative pay of women and men in the public service. It also reiterates its request for specific information on the number of men and women at each level of the pay structure. Finally, the Committee reiterates its request to the Government to provide information on the practical application of this single spine salary structure, including on the issues dealt with by the Fair Wages and Salaries Commission and the steps taken by this Commission to ensure full application of the principle of the Convention in the public service.*

*Article 2(2)(c). Collective agreements.* For a number of years, the Committee has been commenting on collective agreements that contained provisions discriminating against women, in particular concerning the allocation of certain fringe benefits. The Committee notes that, once more, the Government's report does not contain any specific information in response to the Committee's requests in this regard. **Therefore, once again, the Committee urges the Government to take the necessary steps, in cooperation with employers' and workers' organizations, to ensure that provisions of collective agreements do not discriminate on the ground of sex. The Committee requests the Government to provide information on any measures taken or envisaged, in cooperation with employers' and workers' organizations, to promote the principle of equal remuneration between men and women for work of equal value, including objective job evaluation methods, through collective agreements. It also requests the Government to provide examples of collective agreements reflecting the principle enshrined in the Convention.**

*Article 3. Objective job evaluation in the private sector.* In its previous comments, the Committee requested the Government to take steps to promote objective job evaluation methods in the private sector to eliminate unequal pay between men and women. The Committee notes that the Government's report is silent on this point. However, its notes from the sixth round of the Ghana Living Standards Survey, published in 2014, that the hourly earnings of men in the various occupational groups remain higher than those of women except for clerical support workers. The Committee recalls that the concept of "equal value" requires some method of measuring and comparing the relative value of different jobs. 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 (see 2012 General Survey, paragraphs 695–703). **Consequently, the Committee once again requests the Government to take steps to promote objective job evaluation methods in the private sector to eliminate unequal pay, and to provide information on the progress made in this regard. Once more, it requests the Government to provide updated information on the gender pay gap in the private sector, including statistical information based on the results of the recent Ghana Living Standards Survey.**

*Article 4. Tripartite cooperation.* Noting the lack of new information provided in this regard, the Committee once again recalls the important role of the employers' and workers' organizations in promoting the principle of the Convention. **The Committee therefore requests the Government to provide specific information on the concrete steps and action undertaken to promote the principle of the Convention, and the results of such initiatives. The Committee also requests the Government to indicate whether equal remuneration between men and women has been discussed specifically within the National Tripartite Committee, and how the principle has been taken into consideration in the establishment of the minimum wage.**

*Enforcement.* In its previous comments, the Committee noted that the National Labour Commission and the Fair Wages and Salaries Commission deal with issues pertaining to grievances of workers, particularly those regarding equal remuneration and that an Alternative Dispute Resolution Centre, pursuant to the Alternative Dispute Resolution Act of 2010, serves as an additional forum to deal with complaints regarding remuneration. The Committee notes the Government's repeated indication that there have been no cases brought forward on the issue of equal remuneration between men and women workers for work of equal value. In this regard, the Committee 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 (see 2012 General Survey, paragraph 870). **Therefore, the Committee requests the Government to take steps to raise awareness of the relevant legislation, to enhance the capacity of the competent authorities, including judges, labour inspectors and other public officials, to identify and address cases of discrimination and unequal pay, and also to examine whether the applicable substantive and procedural provisions, in practice, allow claims to be brought successfully. In addition, the Government is asked to provide information on any decisions by the courts, the National Labour Commission, the Fair Wages and Salaries Commission and the Alternative Dispute Resolution Centre or any other competent body, as well as on any violations identified by, or reported to, labour inspectors, relating to 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: 1961)**

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 **concern** 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 whether there is effective implementation of the Convention, including whether progress has been achieved since its ratification. **The Committee hopes that the Government's next report will contain full information on the matters raised below.**

*Article 1 of the Convention. Prohibited grounds of discrimination.* Previously, the Committee recalled that the term "social status", "politics" and "political status" set out as prohibited grounds of discrimination in sections 14 and 63 of the Labour Act of 2003 appear to be narrower than the terms "social origin" and "political opinion" enumerated in the Convention. It recalled that the prohibition of discrimination on the basis of political opinion, as contained in the Convention, should cover a worker's activities to express or demonstrate political views and that this protection is not exclusively limited to an individual's activities or position within a political party. Further, discrimination on the basis of social origin arises when an individual's membership of a class, a socio-occupational category, or a caste determines his or her occupational future either by denying him or her access to certain jobs or activities or, conversely, by assigning him or her certain jobs. The Committee notes that, in its report, the Government merely repeats its previous statement that the Committee's concerns have been communicated to the relevant agencies for appropriate action. Consequently, the Committee emphasizes 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 (see 2012 General Survey on the fundamental Conventions, paragraph 853). **The Committee urges the Government to take concrete steps to amend the Labour Act of 2003, so as to include at least all the grounds of discrimination specified in Article 1(1)(a) of the Convention, and to provide information on any progress made in this regard.**

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Committee recalls its previous comments in which it noted that section 175 of the Labour Act, defining sexual harassment, appears to cover only quid pro quo harassment, and not hostile environment sexual harassment. The Committee notes the Government repeated indication that steps have been taken with a view to preventing and combating sexual harassment at work including workplace inspections, and education and training

programmes for employers' and workers' organizations, but that no complaints or reports concerning sexual harassment at the workplace have been brought before the competent authorities under the Labour Act, including the National Labour Commission. The Committee again recalls that the absence of complaints regarding sexual harassment does not necessarily indicate that this form of sex discrimination does not exist; rather, it is likely to reflect the lack of an appropriate legal framework, the lack of awareness, understanding and recognition of this form of sex discrimination among government officials, and workers and employers and their organizations, as well as the lack of access to or the inadequacy of complaints mechanisms and means of redress, or fear of reprisals (see 2012 General Survey on the fundamental Conventions, paragraph 790). **The Committee urges the Government to expand the definition of sexual harassment to explicitly cover hostile environment sexual harassment. The Committee also urges the Government to take concrete steps – for example in the form of seminars, guidance, training, etc. – aimed at achieving better knowledge and understanding of the existence of sexual harassment and the means of preventing and addressing it, among labour inspectors, judges and other relevant public officials, as well as employers, workers and their organizations, and to provide information on the progress achieved.**

*Equality in employment without any distinction of race, colour, religion, or national extraction.* The Committee notes with **regret** that the Government's report is once again silent on the issue of discrimination on the grounds of race, colour, religion, and national extraction. It recalls that, while the relative importance of the problems relating to each of the grounds may differ for each country, when reviewing the situation and deciding on the measures to be taken, it is essential that attention be given to all the grounds in implementing the national policy (see 2012 General Survey on the fundamental Conventions, paragraphs 848 and 849). **The Committee therefore once again asks the Government to take the necessary measures to promote equality of opportunity and treatment in respect of employment and occupation with a view to eliminating any discrimination on the grounds of race, colour, religion and national extraction. The Committee also again asks the Government to provide information on any cases of discrimination in employment based on these grounds identified by or reported to the competent authorities, and on the manner in which they were dealt with. Please provide information on awareness-raising activities, such as training or seminars, on discrimination on the grounds of race, colour, religion and national extraction, among labour inspectors, judges and other relevant public officials, as well as employers, workers and their organizations.**

*Article 5. Special measures. Persons with disabilities.* The Committee recalls the Government's previous indication that the National Council on Persons with Disability was in the process of collecting data on persons with disabilities and on the implementation of the special incentive scheme for employing persons with disabilities. **Noting with regret that the Government once again provides no new information in this regard, the Committee reiterates its request that the Government communicate such data.**

*Enforcement.* Noting that the Government's report is once again silent on this point, the Committee recalls that the monitoring and enforcement of equality and non-discrimination laws and policies is important in determining whether there is effective implementation of the Convention (see 2012 General Survey on the fundamental Conventions, paragraph 868). **The Committee therefore reiterates its request to the Government that it takes steps to enhance the capacity of law enforcement officials to identify and address discrimination in employment and occupation. Once again, the Committee asks the Government to provide information on any decisions of the courts, the National Labour Commission, the Commission on Human Rights and Administrative Justice, or any other competent body, as well as on any violations identified by, or reported to, labour inspectors and the manner in which such cases were addressed. Finally, the Committee again asks the Government to take concrete steps to revise the labour inspection form to include a specific reference to discrimination on all the grounds listed in the Convention, including to sexual harassment.**

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.**

## Greece

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)**

The Committee notes the observations of the Greek General Confederation of Labour (GSEE) received on 31 August 2017 and 30 October 2019.

*Legislative developments.* The Committee notes with **interest** the adoption of Law No. 4604/2019 on Substantive Gender Equality Preventing and Combating Gender-Based Violence of 12 June 2019 which encourages public and private enterprises to draft and implement "Equality Plans" with specific strategies and targets to prevent all forms of discrimination against women and provides that the General Secretariat for Family Policy and Gender Equality (GSFPGE) can award "Equality Labels" to them as a reward for their engagement in favour of equal treatment, including equal pay for equal work, and balanced participation of women and men in managerial positions or in professional and scientific groups set up in the enterprise (section 21). It further notes that the Law provides for the establishment of municipal and regional committees for gender equality to promote women's rights at local level (sections 6 and 7), as well as a National Council for Gender Equality (ESIF) under the auspices of the GSFPGE which aims at consulting relevant stakeholders in order to submit proposals to the GSFPGE for the adoption of policies and actions promoting gender equality, and assess and evaluate existing policies on gender equality (section 9). The Committee notes the enlarged scope of application of the Act which applies to persons who are employed or are candidates for employment in both the public and private sectors, irrespective of the form of employment and nature of services provided, as well as to freelance professional and persons in vocational training or candidate to vocational training (section 17). **The Committee asks the Government to provide information on the application of the Law No. 4604/2019 in practice, and more particularly of its sections 6, 7, 9, 17 and 21, indicating: (i) the number, functioning and activities of municipal and regional committees for gender equality; (ii) the functioning and activities of the National Council for Gender Equality; (iii) the number of equality plans elaborated and implemented by employers, both in the public and in the private sectors; and (iv) the number of equality labels awarded. The Committee asks the Government to provide full information on the relevant activities and measures implemented in this framework as well as on their impact on the implementation of the provisions and principles of the Conventions.**

*Article 2 of the Convention. Gender pay gap.* Referring to its previous comments on the gender pay gap and the occupational gender segregation of the labour market, the Committee notes, from the statistical information forwarded by the Government, that while the gender pay gap decreased from 15 per cent in 2010 to 12.5 per cent in 2014, the average monthly salary of women remained substantially lower than those of men in almost all economic sectors, even when men and women workers are employed in the same occupational category. It observes that, in 2018, the Hellenic Statistical Authority (ELSTAT) carried out a Labour Force Survey (LFS), but regrets that no updated information on the gender pay gap has been included in this survey nor has such information been published since 2014. The Committee notes that the GSEE highlights that the gender pay gap may be higher if data was properly collected, which demonstrates that there is an urgent need to establish an independent mechanism that will monitor this phenomenon, record and process targeted data already stored in existing information systems for employment and social security purposes. The Committee notes, from the 2018 LFS, that the employment rates for women slightly increased from 46.8 per cent in 2016 to 49.1 per cent in 2018, but remained 21 percentage points below that of men (70.1 per cent in 2018), being still one of the lowest employment rate for women among the European Union (EU average of 66.5 per cent), as highlighted by the GSEE. It further notes that women are still mostly concentrated in low-paid jobs, representing 61.2 per cent of clerical support workers but only 26.8 per cent of senior officials and managers and 9.1 per cent of board members of the largest publicly listed companies in the EU (Labour Force Survey of ELSTAT and European Commission, 2019 Report on equality between men and women in the EU, page 27). It further notes that, as highlighted by the European Commission and Eurostat, the gender gap in unpaid working time is one of the higher in the EU which is reflected in the labour market by the fact that more than twice as many women as men are in part-time employment (13.2 per cent and 6 per cent, respectively in 2018). The Committee takes note of the adoption of the National Action Plan for Gender Equality (NAPGE) for 2016–20 and more particularly of the Government’s acknowledgement that: (i) the gender pay gap and pension gap persist; (ii) employed women have low-paid and precarious jobs, with little room for promotion and are unable to develop professionally and educationally; and (iii) women still undertake the bulk of domestic work and spend periods away from the labour market more frequently than men, which also impact their future earnings and pensions. It notes that, as a result, the NAPGE sets specific actions to examine the transferability of good practices to tackle the gender pay gap, such as an annual report on the gender pay structure, and the design of a “salary and wage calculator” which provides up-to-date and easily accessible information on the usual wages in different industries and regions. While welcoming the adoption of the NAPGE, the Committee notes that, in April 2019, the United Nations (UN) Working Group on Discrimination Against Women in Law and in Practice highlighted the need for women’s equal access to the labour market and improved pay and conditions at work, and expressed specific concern at the persistence of the gender pay gap and the absence of women in leadership roles (OHCHR, Press statement of 12 April 2019). ***In light of the persistent gender pay gap and occupational gender segregation of the labour market, the Committee asks the Government to provide information on any measures taken, including in collaboration with employers’ and workers’ organizations, to raise awareness, make assessments, and promote and enforce the application of the Convention. It asks the Government to provide information on the proactive measures implemented, including in the framework of the National Action Plan for Gender Equality for 2016–20, to address the gender pay gap by identifying and addressing its underlying causes, such as vertical and horizontal occupational gender segregation and stereotypes regarding women’s professional aspirations, preferences and capabilities, and their role in the family, by promoting women’s access to a wider range of jobs with career prospects and higher pay. Recalling that regularly collecting, analysing and disseminating information is important for addressing appropriately unequal pay, determining if measures taken are having a positive impact on the actual situation and the underlying causes of the gender pay gap, the Committee requests the Government to take all necessary measures to provide updated statistical information on the gender pay gaps, 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: 1984)***

The Committee notes the observations of the Greek General Confederation of Labour (GSEE) received on 31 August 2017 and 30 October 2019.

*Legislative developments.* The Committee notes with *interest* the adoption of Law No. 4604/2019 on Substantive Gender Equality, Preventing and Combating Gender-Based Violence of 12 June 2019 which encourages public and private enterprises to draft and implement “Equality Plans” with specific strategies and targets to prevent all forms of discrimination against women, and provides that the General Secretariat for Family Policy and Gender Equality –GSFPGE (previously the General Secretariat for Gender Equality, GSGE) can award “Equality Labels” to public and private enterprises as a reward for achievements in the promotion of equality, including through balanced participation of women and men in managerial positions or in professional and scientific groups, equality in professional development, and by the implementation of equality plans or other innovative measures to promote substantive gender equality (section 21). The Committee further notes that the law provides for the establishment of municipal and regional committees for gender equality to promote women’s rights at local level (sections 6 and 7). It also provides for a National Council for Gender Equality (ESIF) under the auspices of the GSFPGE for the purposes of consulting relevant stakeholders in order to submit proposals to the GSFPGE for the adoption of policies and other action promoting gender equality, and for the purpose of assessing and evaluating existing policies on gender equality (section 9). The Committee notes the scope of the Act which applies to persons who are

employed or are candidates for employment in both the public and private sectors, irrespective of the form of employment and nature of services provided, as well as to freelance professional persons and persons in vocational training or candidates for vocational training (section 17). ***The Committee asks the Government to provide information on the application of the Law No. 4604/2019 in practice, and more particularly of its sections 6, 7, 9, 17 and 21, indicating: (i) the number and activities of municipal and regional committees for gender equality; (ii) the activities of the National Council for Gender Equality; and (iii) the number of equality plans developed and implemented by employers, both in the public and in the private sectors and the number of equality labels awarded. The Committee asks the Government to provide detailed information on the relevant activities and measures implemented within this framework as well as on their impact.***

In addition, the Committee notes with *interest* the adoption of the Equal Treatment Law No. 4443/2016, transposing Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of race or ethnic origin, and Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, which replaces Law No. 3304/2005 and expands the list of prohibited grounds of discrimination with the addition of the following new grounds: chronic illness, ancestry, family or social status, and gender identity or characteristics (sections 2(2) and 3). The Committee, however, notes that section 4(1) of the Law No. 4443/2016 provides that “a difference of treatment which is based on a characteristic related to any of the grounds of discrimination shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, such a characteristic constitutes an essential and decisive occupational requirement, provided that the objective is legitimate and the requirement is proportionate”. ***The Committee asks the Government to provide information on the application of section 4(1) of Law No. 4443/2016 in practice, giving examples of cases in which such provision has been used. It further asks the Government to provide a copy of any relevant court decisions, and particularly on any interpretation made of the terms “essential and decisive occupational requirement”, “legitimate objective” and “proportionate requirement”.***

*Article 1(1)(b) of the Convention. Additional grounds. Disability.* Recalling that the national legislation prohibits discrimination on the ground of disability in employment and occupation, the Committee notes that Act No. 4488/2017 of 13 September 2017 on improving the protection of employees and on the rights of persons with disabilities provides that any natural person or public organization in the wider public or private sector, is required to facilitate the equal exercise of the rights of persons with disabilities in their respective fields of competence or activity by taking all appropriate measures and refraining from any action which may discriminate against disabled persons. The Committee notes, from the statistical information provided by the Government, that seven cases of discrimination on the ground of disability or chronic disease were reported by the labour inspectorate, which imposed fines upon the company concerned in three of those cases. It notes that in its 2018 report the Ombudsperson further indicates that 14 per cent of cases received concerned discrimination on grounds of disability or chronic disease. The GSEE indicates that specific steps should be taken to raise awareness of the fact that the treatment of an employee with a disability may conceal discrimination. The Committee notes that in its 2019 concluding observations, the United Nations (UN) Committee on the Rights of Persons with Disabilities expressed concern at the high level of unemployment among persons with disabilities and the insufficient efforts to ensure their inclusion in the open labour market, particularly with regard to women with disabilities (CRPD/C/GRC/CO/1, 29 October 2019, paragraph 38(a)). ***The Committee asks the Government to adopt proactive measures in order to promote equal opportunity and treatment for persons with disabilities in education, vocational training and employment, including by enhancing their access to a wider range of jobs in the open labour market. It asks the Government to provide statistical information on the employment rate of persons with disabilities, disaggregated by sex and work environment (segregated work environment or open labour market).***

*Age.* The Committee recalls that Greek national legislation prohibits direct and indirect discrimination in employment and occupation on the ground of age (section 2(2)(a) of Law No. 4443/2016). Referring to its 2019 direct request on the application of the Equal Remuneration Convention, 1951 (No. 100), the Committee welcomes the removal, as of February 2019, of the lower minimum wage rate which was set since 2012 for young employees under the age of 25. The Committee notes, however, that the European Commission recently observed that, while the national legislation allows for exceptions based on age for specific reasons, there is relevant case law, particularly on the introduction of age limits, that has found that such exceptions constitute discrimination based on age (European Commission, European network of legal experts in gender equality and non-discrimination, Country Report, Greece, 2018, p. 49). The Committee notes with *concern* that, in its 2018 special report on equal treatment, the Ombudsperson indicates that discrimination on the ground of age is constantly the subject of investigations by his Office and refers to several cases of maximum and/or minimum age limits unjustifiably imposed in the case of job vacancies, both in the public and private sectors. Noting the Government’s statement in its report that complaints concerning age limits in job vacancies are frequently made, the Committee recalls that under the Convention age is considered a physical condition in respect of which special measures of protection and assistance may be necessary, as provided for in *Article 5(2)* of the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 813). ***Noting that job vacancies frequently impose restrictions based on age, the Committee asks the Government to take steps to prevent and address cases of direct or indirect discrimination based on age in employment and occupation, including through the development of public information campaigns and awareness-raising activities among workers, employers and their respective organizations. It asks the Government to provide information on the number of cases concerning discrimination on the ground of age in employment and occupation that have been dealt with by the labour inspectorate, the Ombudsperson and the courts, as well as the sanctions imposed and***

**remedies granted. It further asks the Government to provide detailed information on the specific cases in which it was considered that age limits set in job vacancies were covered by the exceptions provided for in the national legislation.**

**Articles 2 and 3. Equality of opportunity and treatment between men and women.** Referring to its previous comments on occupational gender segregation in the labour market, the Committee notes from the Labour Force Survey (LFS) of the Hellenic Statistical Authority (ELSTAT) that in 2018, the employment rate for women slightly increased from 46.8 per cent in 2016 to 49.1 per cent, but remained 21 percentage points below that of men (70.1 per cent in 2018), being still one of the lowest employment rates for women among the European Union member states (EU average is 66.5 per cent), as highlighted by the GSEE. It notes that in 2018, the unemployment rate for women was still substantially higher than that for men (24.2 per cent and 15.4 per cent, respectively). The Committee further notes that women are still mainly concentrated in traditionally female-dominated sectors, such as education (74.4 per cent of women) and health and social services (71.6 per cent of women), as well as in low-paid jobs, representing 61.2 per cent of clerical support workers but only 26.8 per cent of senior officials and managers and 9.1 per cent of board members of the largest publicly listed companies in the European Union (Labour Force Survey of ELSTAT, and European Commission, 2019 Report on equality between men and women in the EU, paragraph 27). It further notes that, as highlighted by the European Commission and Eurostat, the gender gap in unpaid working time (the fact that women do most of the household chores, the care of family members and other unpaid work, which means they have less time to devote on paid employment) is one of the highest in the European Union which is reflected in the labour market by the fact that more than twice as many women as men are in part-time employment (13.2 per cent and 6 per cent, respectively in 2018). The Committee takes note of the adoption of the National Action Plan for Gender Equality (NAPGE) for 2016–2020 and more particularly of the Government’s acknowledgement that: (i) women are still under-represented in specific sectors of the economy; (ii) employed women have low-paid and precarious jobs, with little room for promotion and are unable to develop professionally and educationally; and (iii) women still undertake the bulk of domestic work and spend periods away from the labour market more frequently than men. It notes that, as a result, the NAPGE sets specific actions aimed at, inter alia: (i) the enhancement of women’s employment and in particular women’s entrepreneurship; (ii) the promotion of gender equality in education and vocational training; (iii) ensuring the participation of women in decision-making centres; and (iv) the reconciliation of work and family responsibilities. While welcoming the adoption of the NAPGE, the Committee notes that, in April 2019, the UN Working Group on Discrimination Against Women in Law and in Practice highlighted the need for women’s equal access to the labour market and improved conditions at work, and expressed specific concern at the absence of women in leadership roles (OHCHR, Press statement of 12 April 2019). The Committee further notes that in its 2018 report, the Ombudsperson indicated that the number of complaints on gender-based discrimination, especially at the workplace, increased, representing 57 per cent of the total number of the complaints received in 2018, and referred to several cases of discriminatory job vacancies seeking only men or women candidates. **In light of persistent gender segregation in the labour market, the Committee asks the Government to take steps, including in collaboration with employers’ and workers’ organizations, to raise awareness, make assessments, and promote and enforce the rights guaranteed by the Convention. It asks the Government to provide information on the proactive measures implemented, including within the framework of the National Action Plan for Gender Equality for 2016–20, to improve equality of opportunity and treatment between men and women in employment and occupation by effectively enhancing women’s economic empowerment and access to the labour market, including to decision-making positions.**

**Equality of opportunity and treatment irrespective of race, colour or national extraction. Roma people.** Referring to its previous comments on the measures envisaged in the framework of the Action Plan for the implementation of the National Strategy for the Social Integration of Roma 2012–2020, the Committee notes the Government’s indication that 12 strategies were implemented at regional level for the social integration of Roma people. The Government adds that, between 2013 and 2015, 883 Roma people benefited from local employment projects and 2,232 benefited from the services of the 27 support centres for Roma people and vulnerable groups. The Committee takes note of the adoption, in May 2016, of a project aimed at developing the National Centre for Social Solidarity, as a national platform for consultation and dialogue for the formulation and implementation of policies for the integration of Roma people. The Committee, however, notes that several UN bodies have expressed concern about the persistent stereotypes and discrimination affecting Roma people in access to employment and education, despite the efforts made by the Government, and have expressly recommended that the Government fully implement the National Strategy for the Integration of the Roma for 2012–2020 (OHCHR, Press statement of 12 April 2019; A/HRC/33/7, 8 July 2016, paragraph 135 and A/HRC/WG.6/25/GRC/2, 7 March 2016, paragraphs 16 and 76). **The Committee asks the Government to strengthen its efforts to ensure that acts of discrimination against Roma people in employment and occupation are effectively prevented and addressed and to provide information on the impact of plans and programmes implemented to enhance equal access of Roma people to education, training and employment, including within the framework of the Strategy for the Integration of Roma up to 2020 or otherwise. It asks the Government to provide information on the activities undertaken to that end in collaboration with the National Centre for Social Solidarity, as well as statistical data disaggregated by sex, on the labour market situation of Roma people.**

**Migrant workers.** Taking into consideration the high number of migrants and refugees received by the country since 2015, the Committee notes that according to ELSTAT, for the first quarter of 2019, the unemployment rate of migrant workers was almost twice as high as that of national workers (32.3 per cent and 18.3 per cent, respectively). The Committee notes with **deep concern** that in its 2018 annual report published in April 2019, the Racist Violence Recording Network –

RVRN (which is a network of non-governmental organizations at the initiative of the Greek National Commission for Human Rights and the United Nations High Commissioner for Refugees) refers to incidents perpetrated by employers against migrants and refugees, with victims suffering extreme labour exploitation and physical violence when they ask for their pay. It further notes that several UN treaty bodies have expressed concern about reported cases of migrants working in slavery-like conditions in the agricultural sector and that the Human Rights Council has recommended, in the context of the Universal Periodic Review (UPR), that the Government supervise the working conditions of migrant workers effectively (A/HRC/33/7, paragraph 135 and A/HRC/WG.6/25/GRC/2, paragraph 35). The Committee notes in that regard that, in March 2017, as highlighted by the GSEE, the European Court of Human Rights (ECtHR) handed down a decision where it considered that Bangladeshi workers were victims of trafficking for the purposes of labour exploitation in the agricultural sector (ECtHR Application No. 21884/15, *Chowdury and others v. Greece*, 30 March 2017). The Committee further notes that in its 2018 report, the Ombudsperson refers to a complaint made by 164 migrant workers, requesting that the labour inspectorate conduct field inspections to identify violations of labour laws in the agricultural sector in the region. The Committee notes that the Ombudsperson requested the Government to take appropriate measures to prevent trafficking for labour exploitation. In its report, the Ombudsperson highlights the unsatisfactory results of his numerous interventions since 2008 regarding the administration's inadequate inspection of migrant agricultural workers' working conditions in the region. The Committee notes that the Ombudsperson also mentions several cases of discrimination on the ground of national origin as a result of job vacancies expressly requesting Greek citizens or, in other cases, non-citizens. The Committee wishes to point out that under the Convention all migrant workers including those in irregular situation must be protected from discrimination in employment on the basis of the grounds set out in *Article 1(1)(a)* of the Convention (see 2012 General Survey, paragraph 778). ***The Committee urges the Government to take all necessary steps without delay to address effectively any cases of discrimination against men and women migrant workers in terms and conditions of employment, in particular as regards labour exploitation in the agricultural sector. It asks the Government to provide information on the concrete steps taken or envisaged to foster equality of opportunity and treatment in employment and occupation, irrespective of race, colour or national extraction, as well as on their impact. The Committee asks the Government to provide information on the number and nature of any complaints or cases of discrimination against migrant workers dealt with by the labour inspectorate, the Ombudsperson or by the courts, the sanctions imposed and remedies granted, as well as statistical data, disaggregated by sex, race, and national extraction, on the participation of migrant workers in the labour market.***

*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 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.

### ***Workers with Family Responsibilities Convention, 1981 (No. 156)*** ***(ratification: 1988)***

The Committee notes the observations of the Greek General Confederation of Labour (GSEE) received on 31 August 2017 and 30 October 2019.

*Legislative developments.* The Committee notes with *interest* the adoption of Law No.4604/2019 on Substantive Gender Equality Preventing and Combating Gender-Based Violence of 12 June 2019 which encourages public and private enterprises to draft and implement "Equality Plans" with specific strategies and targets to prevent all forms of discrimination against women and provides that the General Secretariat for Family Policy and Gender Equality (GSFPGE) (previously the General Secretary for Gender Equality, GSGE) can award "Equality Labels" to them as a reward for their engagement in favour of equal treatment, including compliance with labour legislation on maternity protection, implementation of equality plans or other innovative measures to promote substantive gender equality (section 21). It further notes that the Law provides for the establishment of municipal and regional committees for gender equality to promote women's rights at local level (sections 6 and 7), as well as a National Council for Gender Equality (ESIF) under the auspices of the GSFPGE which aims at consulting relevant stakeholders in order to submit proposals to the GSFPGE for the adoption of policies and actions promoting gender equality, and assess and evaluate existing policies on gender equality (section 9). The Committee notes

the enlarged scope of application of the Act which applies to persons who are employed or are applicants for employment in both the public and private sectors, irrespective of the form of employment and nature of services provided, as well as to freelance professional and persons in vocational training or applicant to vocational training (section 17). *The Committee asks the Government to provide information on the application of Law No.4604/2019 and more particularly of its sections 6, 7, 9, 17 and 21, on the specific situation of workers with family responsibilities in practice, for example: information on the activities related to issues pertinent to workers with family responsibilities undertaken by th municipal and regional committees for gender equality and the National Council for Gender Equality, providing samples of the provisions contained in the equality plans elaborated and implemented by employers, both in the public and in the private sectors, aiming at the reconciliation between work and family responsibilities; and information on equality labels awarded for initiatives pertinent to workers with family responsibilities.*

*Article 3 of the Convention. National policy. Protection from discrimination on the ground of family responsibilities.* The Committee takes note of the National Action Plan on Gender Equality (NAPGE) for 2016–2020, which sets as a priority the reconciliation of work and family life as well as a number of targeted actions concerning, inter alia, protection against discrimination on the grounds of pregnancy and maternity and the monitoring of complaints concerning discrimination on the ground of family responsibilities against men and women. Referring to its previous comments where it noted that working mothers returning from maternity leave have been offered part-time and rotation work, the Committee notes that according to the statistical information provided by the Government in its report on the application of the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), since 2014 the number of women workers whose working arrangements have been converted to part-time and rotation employment, with or without their consent, has increased. The Committee observes that these statistics are not disaggregated by family status of women workers. It notes that, in its 2018 special report on equal treatment, the Ombudsman also highlighted the substantial number of reports relating to detrimental changes in working conditions imposed on women returning from maternity leave. The Committee also notes that, in April 2019, the United Nations (UN) Working Group on Discrimination Against Women in Law and Practice expressed concern about ongoing discrimination based on pregnancy and family responsibilities, indicating that while women who return to work following maternity leave are legally entitled to return to the same job or an equivalent one, with no less favourable working terms and conditions, in practice, a serious deficiency is observed in the application of the law relating to these matters, particularly in relation to women in high-ranking positions. Some working women face strict restrictions including the refusal to count the maternity leave period in the total length of service, negatively impacting their career development, and in some cases, women are totally excluded from exercising their rights relating to maternity or face a change in their working conditions, such as reduced hours, imposed by employers due to pregnancy and caring responsibilities (OHCHR, Press statement of 12 April 2019). *The Committee asks the Government to provide information on the measures implemented, in the framework of the National Action Plan on Gender Equality or otherwise, to facilitate the reconciliation between work and family life for men and women workers with family responsibilities, including by ensuring that workers with family responsibilities receive adequate protection against discrimination in practice. The Committee asks the Government to provide information on any measures taken to ensure the effective implementation of the relevant legislative provisions, including awareness-raising activities for employers, as well as their impact. It also asks the Government to provide information on any cases on discrimination in employment and occupation based on family responsibilities dealt with by the labour inspectors, the Ombudsman, or the courts, as well as on the sanctions imposed and remedies provided.*

*Article 5. Childcare and family services and facilities.* The Committee previously noted that, as a result of the action “Reconciliation of work and family life”, implemented in the framework of the Operational Programme “Human Resources Development” 2007/2013, women workers received a voucher providing care services for babies, children and persons with disabilities, and requested the Government to consider providing such vouchers to men and women workers with family responsibilities on an equal footing. The Committee notes the Government’s indication that such measure benefited almost 210,000 persons and that, as a result, the action will be continued for the period 2014–20, targeting women with low income. The Government adds that the beneficiaries of such action are mothers, as well as men or women who are granted the custody of children by court ruling. Concerning the number of childcare facilities, the Government states that 39 non-profit making baby-care centres and kindergartens are operating at the initiative of charitable organizations, churches and foundations; 1,270 profit-making baby-care centres and kindergartens are operating following a licence issued by the competent municipality; and 500 children’s creative engagement centres (KDAP) are licensed and operating for children aged from 5 to 12 after school hours. The Government adds that, from 2011 to 2016, the number of children accommodated in such facilities doubled. The Committee however notes that the GSEE expresses concern at the continuous reduction of the available day-care facilities for children and dependent persons and refers in this regard to the 2016 Annual report of the National Commission for Human Rights which highlighted the continuous reduction of the already insufficient day-care facilities for children and dependent persons limiting women’s ability to take up employment or keeping them in jobs with reduced rights (NCHR, Annual report, 2016.). It further notes that the European Commission recently indicated that, as regards the availability of childcare facilities, the situation in Greece, which has a participation rate lower than 10 per cent, hardly improved at all (European Commission, 2019 Report on equality between men and women in the EU). Furthermore, it notes that, in December 2018, the GSFPGE highlighted the need for additional measures for the participation of children in preschool education, which will contribute to the reconciliation of family, personal and professional life of their parents, especially women (GSFPGE, E-bulletin No. 18, 17 December 2018). The Committee notes that, in April 2019, the UN

Working Group on Discrimination Against Women in Law and Practice also considered that a major issue of concern for gender equality is the severe reduction of state-provided care services for children and dependent persons which intensifies women's unpaid care work, limiting their ability to access or remain into the labour market, Greece having very low rates of childcare and childcare being costly. *The Committee asks the Government to take appropriate steps in order to effectively ensure adequate, affordable and accessible childcare services and facilities, with a view to assisting men and women workers to reconcile work and family responsibilities. It further asks the Government to provide information on: (i) the extent of childcare, and family services available for men and women workers with family responsibilities; and (ii) the number of workers with family responsibilities making use of the existing childcare and family services and facilities.*

*Article 8. Protection against dismissal.* The Committee previously noted the rapid increase in the number of complaints relating to the dismissal of pregnant women, despite Act No. 3896/2010 (sections 16 and 20) and Act No. 3996/2011 which provide specific protection against unfair dismissal and extend to 18 months the period of time during which working mothers cannot be dismissed after their return from maternity leave. The Government indicates that, pursuant to section 52 of Law No. 4075/2012, dismissal on the ground of an application for granting parental leave is null and void. Noting the absence of information provided by the Government on the practical application of the above-mentioned legislative provisions, the Committee notes that the NAPGE 2016–2020 sets as specific actions: (i) the protection of pregnant women, including through the elimination of abuse of dismissal for a “significant reason”; (ii) the protection of women against discrimination on the grounds of pregnancy or maternity; and (iii) the monitoring of complaints concerning discrimination on the ground of family responsibilities against men and women. The Committee notes that, in its 2018 special report on equal treatment, the Ombudsman indicated that the substantial number of reports relating to the dismissal of pregnant women in the private sector demonstrates that despite enhanced legislative protection, the relevant prohibition has not been fully understood. *The Committee asks the Government to take appropriate steps to ensure effective protection of men and women workers against dismissal on the ground of family responsibilities, including by ensuring that effect is given in practice to sections 16 and 20 of Act No. 3896/2010 and Act No. 3996/2011. It asks the Government to provide information on any cases on dismissal of workers on the ground of family responsibilities dealt with by the labour inspectors, the Ombudsman, or the courts as well as the sanctions imposed and remedies granted.*

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

## Guatemala

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1961)**

*Article 1(b) of the Convention. Equal remuneration workers for work of equal value. Legislation.* In its previous comment, the Committee noted that the various provisions of national legislation establishing the principle of equal remuneration (article 102(c) of the Constitution, section 89 of the Labour Code and section 3 of the Civil Service Act, set out in Decree No. 1748 of 2 May 1968) lay down a principle narrower than that provided for in the Convention and requested the Government to take legislative measures in this regard. The Commission notes the Government's indication in its report that all of the legislative reforms recommended by the Committee with respect to the application of the principle have been submitted for discussion to the Chairperson of the Subcommittee on Labour Legislation and Policy of the National Tripartite Committee on Labour Relations and Freedom of Association. The Government also reports that the draft proposal to reform Decree No. 1748, which includes the amendment of section 3 of the Civil Service Act, is currently pending before the National Congress. *The Committee trusts that, following up on the initiatives referred to by the Government, the necessary measures will be taken to ensure that the legislation duly reflects the principle of equal remuneration for men and women for work of equal value, and requests the Government to provide information in this regard.*

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

## Guinea

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)**

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) and (b) of the Convention. Anti-discrimination legislation. Civil service.* The Committee recalls that Act No. L/2014/072/CNT issuing the Labour Code of 2014 excludes public officials from its scope of application (section 2). It also recalls that section 11 of Act No. L/2001/028/AN of 31 December 2001 issuing the Civil Servants Regulations only prohibits discrimination between officials on the basis of political, trade union, philosophical or religious views, and on the basis of sex or ethnic origin. Since 1990 the Committee has been underlining the fact that legal protection against discrimination for civil servants is inadequate since it does not cover all aspects of discrimination based on race, colour, national extraction and social origin, and that applicants for employment in the civil service are not covered by section 11 of the Civil Servants Regulations. *Noting the Government's indication in its report that the Committee's request to amend the legal provisions concerning discrimination will be referred to the Ministry of the Civil Service, the Committee trusts that the Government will take the necessary steps in the very near future to amend section 11 of Act No. L/2001/028/AN issuing the Civil Servants Regulations, so as to ensure that civil servants and applicants for employment in the public service are afforded protection against any direct or indirect discrimination*

on the basis of at least all of the grounds of discrimination covered by Article 1(1)(a) of the Convention. The Government is requested to provide information on any measures taken in this regard and on any complaint mechanism enabling applicants for employment in the civil service to lodge an appeal if they consider that they have suffered discrimination at the time of recruitment.

*Discrimination on the basis of sex. Sexual harassment.* The Government indicates in its report that, despite the penalties established by law, victims of sexual harassment hardly ever file complaints for sexual harassment. **Noting that the Government recognizes the existence of victims of sexual harassment, the Committee requests it to take measures to prevent sexual harassment in employment and occupation, for example, by launching awareness-raising campaigns (such as, on the radio or through other media) or reinforcing prevention activities by the labour inspectorate in this area, and also measures to inform workers, employers and their respective organizations of their rights and obligations in this area. The Government is also requested to consider whether complaint and appeal mechanisms at the national level and within enterprises are sufficiently accessible, impose adequate penalties and have the capacity to stop sexual harassment.**

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: 1995)**

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

*Articles 3 and 6 of the Convention. National policy. Information and education.* The Committee recalls that, according to Article 3 of the Convention, "with a view to creating effective equality of opportunity and treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities". Such measures belong in the context of the broader issue of gender equality. It is essential, therefore, that the policy be designed not only to eliminate all discrimination against workers with family responsibilities in law and practice, but that active measures should be taken to promote the principle of equality of opportunity and treatment for workers with family responsibilities in all areas of employment and occupation (see General Survey of 1993 on workers with family responsibilities, paragraphs 54–59). For almost 20 years, the Committee has been emphasizing that "family responsibilities" are not among the grounds of discrimination expressly prohibited by the Labour Code. The Committee notes the Government's indication, in its report, that it will take steps to enable men and women with family responsibilities to enjoy their rights. **Recalling that there is still no national policy concerning workers with family responsibilities, the Committee urges the Government to take the necessary measures, in law and practice, to ensure that men and women workers with family responsibilities who so wish are able to access employment or be engaged in employment without discrimination and, if possible, without conflict between their employment and family responsibilities, including: (i) by expressly prohibiting in the Labour Code any discrimination on the basis of family responsibilities in all forms of employment and occupation, including at the recruitment level; (ii) by allowing workers with family responsibilities to be informed of their rights and to assert them; and (iii) by adopting a combination of support measures and public information and awareness-raising measures on the problems that workers with family responsibilities face, as well as measures to promote mutual respect and tolerance within the population.**

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.*

## **Guyana**

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)**

*Articles 1 and 2 of the Convention. Legislation.* Since 1998, the Committee has been referring to the need to amend section 2(3) of the Equal Rights Act No. 19 of 1990 which provides for "equal remuneration for the same work or work of the same nature" in order to bring it into conformity with the provisions of the Convention and align it with the Prevention of Discrimination Act No. 26 of 1997 (section 9(1)), therefore reflecting the principle of equal remuneration for men and women for work of equal value. The Committee notes once again with **regret** that no progress has been reported by the Government in its report. The Committee recalls that it considers that the coexistence of the two different concepts in the current legislation has the potential to lead to misunderstanding in the application of the principle of the Convention. **The Committee urges the Government to take steps to amend section 2(3) of the Equal Rights Act No. 19 of 1990 with a view to bringing it into conformity with the principle of the Convention and aligning it with the Prevention of Discrimination Act No. 26 of 1997 so as to remove any legal ambiguities.**

*Article 2. Minimum wage.* The Committee notes that the Government indicates that the National Minimum Wage Order which was adopted in July 2013 does not provide for a distinction of rates of pay on the basis of sex or gender. The Committee notes the adoption in October 2016 of a new Labour (National Minimum Wage) Order which raised the minimum wage in the private sector from 35,000 to 44,000 Guyanese dollars (GYD) per month (around US\$210.50 dollars). The Committee also notes from the speech on the budget made by the Minister of Finance in November 2018 that "the Government has also raised the minimum basic salary for each public servant to GYD64,200 per month" (paragraph 3.30). The Committee wishes to point out that as women predominate in low-wage employment, and that a uniform national minimum wage system helps to raise the earnings of the lowest paid, it has an influence on the relationship between men and women's wages and on reducing the gender pay gap (see General Survey of 2012 on the fundamental Conventions, paragraph 683). **The Committee asks the Government to provide information on the proportion of men and women**

*workers, disaggregated by sex, to which the new national minimum wage in the private sector and the minimum basic salary in the public sector apply. The Committee asks the Government to provide any information available, including studies, showing the impact of the introduction and increase of the national minimum wage and the increase of the minimum basic salary on the earnings of women in both the public and the private sectors and the gender pay gap.*

*Articles 2(2)(c), 3 and 4. Collective agreements and cooperation with employers' and workers' organizations. Objective job evaluation and wage determination.* In its previous comments, in order to facilitate the application of the principle of the Convention and to ascertain whether jobs done traditionally by women are undervalued in comparison with jobs done traditionally by men, the Committee asked the Government to indicate whether objective job evaluations were undertaken or envisaged in the public and private sectors and, if so, to specify the method and the evaluation criteria used. The Committee notes the Government's indication that rates of remuneration are fixed through the collective bargaining and negotiation process, without due regard to the differences in sex or gender. While noting this information, the Committee recalls that men and women tend to perform different work using different skills. Therefore, for the purpose of ensuring equal remuneration for men and women for work of equal value and avoiding an undervaluation of work traditionally performed by women, the Committee wishes to emphasize the importance of evaluating each job concerned on the basis of criteria free from gender bias, such as skills/qualifications, effort, responsibilities and working conditions, when determining rates of remuneration. ***The Committee asks the Government to take concrete steps to raise awareness among workers' and employers' organizations about the principle of equal remuneration for men and women for work of equal value and the need to use objective job evaluation methods and criteria to avoid undervaluation of jobs traditionally performed by women when fixing rates of remuneration. The Committee asks the Government to provide detailed information on the manner in which rates of remuneration are determined by the social partners, including on the method and criteria used. The Committee further asks the Government to indicate whether rates of remuneration are determined by collective bargaining in the public sector.***

*Statistics.* The Committee recalls that appropriate data and statistics are crucial for determining the nature, extent and causes of unequal remuneration, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures and make any necessary adjustments in order to better promote the principle of equal remuneration for men and women for work of equal value. ***Therefore, the Committee asks the Government to provide any statistical data available, disaggregated by sex, on the distribution of men and women in the various economic sectors and occupations, and on their corresponding earnings, in both the public and private sectors.***

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1975)***

The Committee notes with *regret* that the Government's report does not contain information in reply to its previous comments.

*Articles 1 and 2 of the Convention. Equality of opportunity and treatment for men and women.* In its previous comments, the Committee asked the Government to provide information on the specific measures taken in the framework of the five-year Strategic Plan of the Women and Gender Equality Commission of the National Assembly to promote gender equality in employment and occupation, including vocational training, and to enhance women's access to all jobs, including those in non-traditional areas and decision-making positions in both the private and public sectors. The Committee notes that, in its ninth periodic report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) (2018), the Government provided detailed information on the situation of women, but the information provided did not contain answers to the questions raised by the Committee of Experts. According to the Government's report to the CEDAW, "it is estimated that women's share of the workforce is 34.6 per cent and that 65.4 per cent of these women are not engaged in the formal economy. The national census (2012) noted that the majority of these women (48.6 per cent) are engaged in unpaid work (home duties), while others pursue educational advancement (8.0 per cent) and the remainder (7.1 per cent) are women retirees. The Government adds that, according to the World Bank's Enterprise Survey (2010), mentioned in the Government's report to the CEDAW, women are under-represented in the top management of private sector firms with a mere 17 per cent as managers. However, female participation in ownership of private firms is significantly higher with 58 per cent (CEDAW/C/GUY/9, 10 July 2018, paragraph 89). The Government's report to the CEDAW further indicates that women in unionized agricultural production comprise 20 per cent of the workforce. It adds that temporary special measures have been implemented to address discrimination against women in the fields of microcredit, as well as education and training. The Committee welcomes the Government's indication in the above report that "gender parity has been achieved in primary education at the national level". However, the report adds that, despite significant progress in the promotion of women in traditionally male-dominated sectors (engineering, electrical and construction), the overall enrolment in technical and vocational education and training in 2011–14 for women was 38 per cent compared to 62 per cent for males. The Committee notes that, according to the report to the CEDAW, "consistent efforts have been made to reverse and eliminate the persistence of gender stereotyping, negative cultural attitudes and other discriminatory practices" (CEDAW/C/GUY/9, paragraphs 48, 78 and 91). The Committee further notes from the ILO 2018 Country Report on Guyana (*Gender at work in the Caribbean*) that the Ministry of Social Protection also collaborates with international agencies to execute projects that can assist women in vulnerable situations to address systematic barriers to their participation and performance in the labour force and their ability to carry out caring work, particularly in relation to poverty and HIV stigma and discrimination. The Government also has instituted several training programmes with job skills

for women, with a focus on single parents, who often face special difficulties in accessing the labour market and finding jobs. **The Committee asks the Government to continue taking active steps to remove obstacles that hinder women's access to, and advancement in, employment and occupation, including awareness-raising measures to combat any gender stereotypes and patriarchal attitudes that assume that the burden of domestic and caring responsibilities must be borne by women. The Committee asks the Government to clarify the status of the National Gender and Social Inclusion Policy and, if adopted, to provide specific information on the steps taken in practice to implement it, and particularly details on the results achieved in employment and occupation. The Government is also asked to provide information on the activities of the Women and Gender Equality Commission (WGEC), including the results achieved in the framework of the above-mentioned five-year Strategic Plan, and on the activities of the Gender Affairs Bureau (GAB).**

*Article 1(1)(a). Multiple discrimination, including discrimination based on race. Persons of African descent, in particular women.* The Committee notes from the Report of the United Nations Working Group of Experts on People of African Descent following its mission to Guyana (from 2 to 6 October 2017) that the Government has not developed a specific national action plan to combat racism, racial discrimination, xenophobia or other forms of intolerance. It further notes the indication that “Afro-Guyanese women often face inequalities and multiple forms of discrimination on the grounds of their race, colour, gender and religious belief” and that, although the participation of women in the labour force is rising, women are also increasingly concentrated in low-paying jobs. The Committee notes the concern expressed by the Working Group at the high drop-out rates of girls (A/HRC/39/69/Add.1, 13 August 2018, paragraphs 30-31). **The Committee asks the Government to provide information on the steps taken in practice to address discrimination faced by persons of African Descent, in particular women and girls, with respect to access to and advancement in education and employment and occupation. The Government is also asked to provide any available information on the situation of men and women of African descent in employment and occupation, in particular in rural areas.**

*Indigenous peoples.* The Committee notes from the ILO 2018 Country Report mentioned above that the original peoples (Amerindians) represent 10.5 per cent of the population. The Committee notes from the website of the Ministry of Indigenous Peoples' Affairs that, over the past three years, 2.3 billion Guyanese dollars (GYD) have been devoted to hinterland youth empowerment, which has resulted in the establishment of 2,054 successful businesses. The youths were trained under the Hinterland Employment and Youth Service (HEYS) programme, which succeeded the Youth Entrepreneurship and Apprenticeship Programme (YEAP), that targeted approximately 4,000 youths in the 215 indigenous villages and communities across the country. **The Committee asks the Government to continue taking steps promoting a wide range of training and employment opportunities for members of indigenous peoples and to provide information on the development and results of the HEYS programme. The Committee also asks the Government to provide any available information, disaggregated by sex, on the situation of persons from indigenous peoples in employment and occupation, including in entrepreneurship and traditional activities. The Government is asked once again to provide detailed information on the activities carried out by the Ethnic Relations Commission and the Indigenous Peoples Commission and their impact in the fields of education, training, employment and occupation.**

*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 noted with concern that discriminatory attitudes and stereotypes based on the race, colour or national extraction of men and women workers continues 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 considered 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.**

*Discrimination based on sexual orientation and gender identity.* The Committee also notes from the ILO 2018 Country Report that “there are no laws relating to gender identity” although “there are substantial reports of discrimination against transgender persons and other members of the LGBTI community with regard to accessing employment opportunities”. In this regard, the Committee further notes from the report of the United Nations Working Group of Experts on People of African Descent that “civil society entities reported that discrimination against lesbian, gay, bisexual and transgender persons and sex workers was widely prevalent”. Transgender Guyanese persons in particular are criminalized and stigmatized, and subjected to discrimination because they are more visible than other members of the lesbian, gay and bisexual community (A/HRC/39/69/Add.1, 13 August 2018, paragraph 33). **The Committee asks the Government to provide information on any steps taken or envisaged to prevent and address discrimination based on sexual orientation and gender identity in employment and occupation, including legislative and awareness-raising measures.**

*Enforcement and statistics.* The Committee notes from the ILO 2018 Country Report that “it has been reported that the laws to prevent discrimination are not effectively enforced”. The Committee notes the Government’s indication that the data requested are not available. **The Committee once again asks the Government to provide information on the enforcement of the legislation prohibiting discrimination on the grounds set out in the Convention and to take active steps to ensure effective access to and the functioning of the enforcement mechanisms dealing with complaints of discrimination. The Government is also asked to take the necessary steps to ensure that it is in a position to collect and compile statistical data, disaggregated by sex, on the participation of men and women, as well as the different ethnic groups, in the various sectors and occupations.**

## Honduras

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1956)**

The Committee notes the observations of the General Confederation of Workers (CGT), the Workers’ Confederation of Honduras (CTH) and the Honduran National Business Council (COHEP), sent with the Government’s report, as well as the observations of the COHEP, received on 2 September 2019 and the response of the Government received on 9 October 2019.

*Articles 1 and 2 of the Convention. Gender pay gap. Statistics.* In its previous comments, the Committee requested the Government to provide information on the progress it had made to reduce the gender pay gap. The Committee notes the Government’s indication in its report that since 2018, the pay gap has been more favourable to women in the private and public sectors, given that women have higher levels of schooling and work more in urban areas. In this regard, the Government provides a set of data disaggregated by sex, including statistics on: average income by branch of activity, minimum wages by branch of activity, and minimum wages by occupation (levels of responsibility). The Committee notes the Government’s indication that it lacks information to be able to conduct an analysis, explaining that the only source of information on the labour market is the permanent household survey of National Institute of Statistics (INE). The Committee notes that, in their observations, the CGT and CTH indicate that, in practice, significant gender pay gaps do exist, particularly in the public sector, and that it would be important to make a comparison by position. The Committee also notes that, in its observations, the COHEP indicates that the statistical data provided by the Government needs to be reviewed and refers to a series of surveys conducted by businesses on the participation of women in the workplace (the report on women in business management “*Mujeres en la gestión empresarial*” and the Market Systems Survey Analysis “*Encuesta de diagnóstico sistemas de mercado*” and the projects on Human Rights Due Diligence of Companies in relation to the Supply Chain “*La debida diligencia empresarial en materia de derechos humanos en relación con la cadena de suministros*”). COHEP notes that 98 per cent of companies consulted as part of the project on Human Rights Due Diligence of Companies in relation to the Supply Chain provide equal pay to men and women for the performance of the same work. While noting this information, the Committee observes that the data provided do not allow the comparison of the pay of men and women in different positions and at levels of responsibility by which may nonetheless be of equal value. In so doing, the Committee draws to the attention of the Government that the principle of equal pay for work of equal value not only requires equal pay for the same work but also equal remuneration for jobs that may be entirely different but nevertheless of equal value (see 2012 General Survey on fundamental Conventions, paragraphs 667 and 679). **In order to be able to conduct a detailed analysis and with full knowledge of the facts on the gender pay gap, the Committee requests the Government to make every effort to compile the most comprehensive statistics possible on the level of pay for men and women in the private and public sectors. In this regard, the Committee refers in particular to its general observation concerning the application of the Convention adopted in 1998.**

*Article 1(b). Work of equal value. Legislation.* In its previous comments, the Committee noted that section 367 of the Labour Code and section 44 of the Equal Opportunities for Women Act (LIOM), as well as Decree No. 27-2015, do not ensure the application of the principle of equal remuneration for work of equal value, and requested the Government to report on any legislative amendments. The Committee notes the Government’s indication in its report that: (1) labour law reform begins with the submission to the Economic and Social Council (CES) of the intention to reform or amend the Labour Code; and (2) the National Institute for Women (INAM) has initiated a proposal to reform the LIOM and a number of meetings between representatives of the various state institutions and of civil society have been held on that matter; and (3) the highest-ranking authorities have been informed so that they can begin taking the necessary measures to bring the labour legislation into line with international Conventions. The Committee also notes that, in its observations, the COHEP indicates that no employers’ association has been convened to analyse the LIOM reform, and that it has not been submitted to the CES. **The Committee trusts that the necessary measures will be taken to ensure that the legislation duly reflects the principle of equal pay for men and women for jobs that are of a different nature, but are of equal value, and requests the Government to provide information in this regard.**

**The Committee also recalls the importance of consultations with the social partners in the process of labour law reform, and trusts that the Government will ensure this occurs in relation to any measures implementing the principle of the Convention.**

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

## India

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1960)**

The Committee notes that the Government's report contains no reply to its previous comments. It is therefore bound to repeat its previous comments.

*Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment.* In relation to its previous comments on the scope of application of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013, the Committee notes the Government's indication that agricultural workers as well as workers from workplaces employing less than ten workers can file complaints concerning sexual harassment with the Local Complaint Committee established at the district level. The Committee notes that, in reply to its comments, no further information is provided concerning the practical application of the Act. The Committee notes that the United Nations Committee on the Elimination of Discrimination Against Women (CEDAW) raised concerns about continued sexual harassment and violence against women and girls, which has repercussions on their school attendance and participation in the labour market. CEDAW notes the stark increase in violent crimes against women, especially rape and abduction, and the escalation of caste-based violence, including rape, against women and girls (CEDAW/C/IND/CO/4-5, 24 July 2014, paragraphs 10(a)–(c) and 26). The Committee recalls that the Act only addresses sexual harassment against women and that the Committee had previously recommended that men should also be protected against this serious form of sex discrimination. **The Committee asks the Government to provide specific information on the practical application of the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013, and any other measures adopted or envisaged to combat sexual harassment and violence against women related to the workplace. The Committee also asks the Government to supply information on the number of sexual harassment cases filed with internal and local complaints committees and their outcomes, including remedies provided and penalties imposed. It again asks the Government to review the impact of section 14 of the Act (action against malicious or false complaints or false evidence) on the willingness of women and other persons to file complaints of sexual harassment without fear of reprisals. This should also include information on reprisals and efforts to prevent reprisals at workplaces employing less than ten employees and in agricultural workplaces. The Government is also asked, when the opportunity of the revision of the Act arises, to amend the Act to ensure that men, as well as workplaces in the unorganized sector with more than ten employees, are also protected against sexual harassment in the workplace, and to provide information on any developments in this regard.**

*Articles 1–3. Measures to address discrimination based on social origin.* The Committee notes the Government's indication that the quota system for scheduled castes in the public sector has contributed to increasing the representation of these groups in the public sector. According to the Government's report, whereas in 1965 scheduled castes represented 13.17 per cent of the personnel in government services, in 2012 they accounted for 17.3 per cent of the staff. In this regard, the Committee notes that the quota for scheduled castes in the public sector, in direct recruitment on an all-India basis by open competition, is 15 per cent. The quota in direct recruitment on an all-India basis other than by open competition is 16.66 per cent. The Committee notes that various "special recruitment drives" have been launched in recent years to fill the backlog of reserved vacancies for scheduled castes and tribes. The overall success rate of the last drive held in 2012 was 74.85 per cent. The Committee further notes the information provided by the Government concerning the various schemes put in place with a view to fostering education and economic empowerment of scheduled castes. According to the Government's report, the positive impact of these schemes is reflected in the enhanced representation of scheduled castes in the public sector. No information is, however, provided concerning the impact of these schemes beyond the fulfilment of the quotas.

Regarding affirmative action measures in the private sector, the Committee notes the information concerning some initiatives taken by the Apex Industry Chambers, such as providing skills training, entrepreneurship development programmes, and coaching and scholarships to more disadvantaged sections of society. The Government also indicates that some of the industry associates have prepared a voluntary code of conduct in which emphasis is placed on increasing opportunity in employment for disadvantaged sections of society through skills upgrading, continuous training and scholarships, among other matters. As regards the steps taken to intensify awareness raising on the prohibition and unacceptability of caste-based discrimination in employment and occupation, the Government indicates that it has addressed a set of recommendations, in its advisory capacity under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, to the chief secretaries of all states/union territories (UTs). These recommendations include: (i) creating awareness through print and electronic media; (ii) developing a community monitoring system to verify cases of violence, abuse and exploitation and taking necessary steps to curb such cases; (iii) involving the community at large in creating and spreading such awareness; and (iv) organizing legal literacy and legal awareness workshops. The Committee notes that no information is, however, provided by the Government on the specific measures taken at central and local government levels to raise awareness about discrimination based on social origin in employment and occupation. **Recalling that continuous measures are required to put an end to discrimination in employment and occupation due to real or perceived membership of a certain caste and noting the absence of specific information on the impact of the various schemes and measures, except for the implementation of the quota system, the Committee asks the Government to undertake a comprehensive assessment of the progress made to date in addressing caste-based discrimination in employment and occupation. It also asks the Government to identify the additional measures needed in order to advance equality of opportunity and treatment for all men and women, irrespective of social origin and to provide information in this respect. This information should include the results of any study conducted by the National Commission for Scheduled Castes with regard to education, training, employment and occupation. The Committee also asks the Government to step up its efforts to raise public awareness of the prohibition of caste-based discrimination and to provide information on the specific measures taken to this end, including steps taken in cooperation with the social partners. The Government is also asked to continue to provide information on the affirmative action measures adopted in the private sector to combat caste-based discrimination and to promote equality of opportunity and treatment, irrespective of social origin, and on their impact. Noting the Government's indication that the implementation of the quota system for Dalit Muslims and Dalit Christians has been brought to the attention of the Supreme Court, the Committee further asks the Government to provide information on any progress made on this matter.**

*Manual scavengers.* The Committee refers to its previous observations in which it asked the Government to take vigorous and comprehensive steps to put an end to the continuing degrading and inhumane practice of manual scavenging and welcomed the adoption of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act 2013 (MS Act, 2013). The Committee notes that in December 2013, the Prohibition of Employment as Manual Scavengers and their Rehabilitation Rules (MS Rules, 2013) were also enacted. Concerning the implementation of the Act, the Committee notes the Government's indication that

the Ministry of Social Justice and Empowerment has been holding review meetings with the concerned states and UT administrations with a view to raising awareness about the problem of manual scavenging; outlining the actions that need to be taken under the various provisions of the Act, and assessing the actions taken so far. The Government has also informed the Committee that a survey on manual scavengers in statutory towns has been completed in 27 of the 35 states/UTs and action is being taken to gather information on the rehabilitation needs of the identified scavengers and their dependants. The Committee notes that all manual scavengers, irrespective of their caste and religion, are eligible for the rehabilitation assistance under the Act, as specified in rule 11(22) of the MS Rules 2013. The Government also indicates that the manual scavengers who left their jobs prior to the coming into force of the Act can access concessional loans for self-employment and training under the schemes of the National Safai Karamcharis Finance and Development Corporation. The Committee, however, also notes that, according to the report of the UN Special Rapporteur on minority issues, the practice of manual scavenging persists despite the adoption of the Act, and is institutionalized through state practice, with local governments and municipalities employing manual scavengers (A/HRC/31/56, 28 January 2016, paragraph 72). **The Committee asks the Government to step up its efforts in order to ensure the full application of the MS Act 2013, in practice, and to provide comprehensive information on the steps taken to this end, including detailed information, disaggregated by sex, on the number of persons who are benefiting or have benefited from the rehabilitation measures provided for under the Act, and their impact. The Committee also asks the Government to provide information on the results of the assessments made concerning the actions taken so far by the states/UTs and to supply the results of the survey on manual scavengers in statutory towns where already completed. The Committee again asks the Government to provide information on the activities of the district and state and central level vigilance and monitoring committees, district magistrates and inspectors as regards the application of the Act, and on the number and nature of offences registered, investigations and prosecutions instigated, and penalties imposed on private and public bodies. The Government is also asked to supply information on the impact of the National Safai Karamcharis Finance and Development Corporation scheme on the rehabilitation of manual scavengers who ended this activity before the entry into force of the MS Act 2013.**

*Equality of opportunity and treatment between women and men.* The Committee notes that in its concluding observations the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) has expressed concerns about the declining participation of women in the labour force, both in rural and urban areas, and the fact that women own only 9 per cent of land (CEDAW/C/IND/CO/4-5, 24 July 2014, paragraph 28). The Committee notes from the Government's report that, according to data for 2011–12, nearly 75 per cent of women in rural areas were engaged in agriculture, 10 per cent in manufacturing and 6.6 per cent in construction works. With regard to urban areas, according to the same set of data, 53 per cent of women were engaged in services and 29 per cent in manufacturing. The Committee notes the Government's indication that under the 12th Five-Year Plan (2012–17) the Ministry of Women and Child Development is implementing a specific scheme to support training and employment for women (STEP programme). **The Committee again asks the Government to identify the specific steps taken to promote equality of opportunity and treatment between men and women in employment and occupation, including improving access to land, credit and other material goods needed to engage in an occupation, and on their impact. The Committee is also asked to supply specific information on the impact of the STEP programme and other relevant schemes, including the National Rural Livelihood Mission, in advancing gender equality and addressing occupational gender segregation. The Committee also asks the Government to provide updated statistical information on the participation of men and women in employment and occupation, according to sector and employment status, in order to monitor progress over time.**

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.**

## Jamaica

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1975)**

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

*Article 1(b) of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee has been pointing out since 1997 that the Employment (Equal Pay for Equal Work) Act of 1975 does not include the concept of "work of equal value" as required by the Convention. The protection under the current law is narrower than the protection contained in the Convention in that it is limited to requiring the payment of equal remuneration for equal work, which is defined as work performed by men and women alike in which the duties, conditions of work and qualifications are similar or substantially similar, and the differences are not of practical importance and do not occur frequently. The Committee has also emphasized that the application of the concept of "work of equal value" is fundamental to the promotion and achievement of equal pay between men and women in employment and to reducing the gender pay gap. The Committee recalls its previous requests to the Government to review the Act of 1975 in light of the requirements of the Convention and to consider asking for technical assistance from the ILO. It notes from the Government's reply that these requests have not been taken up by the Government. In this regard, the Committee must recall that in previous years the Government had indicated that it intended to review the Act of 1975. **The Committee urges the Government to undertake a review and to update the Employment (Equal Pay for Equal Work) Act of 1975 to bring its provisions and into full conformity with the Convention by welcoming the principle of equal pay for men and women for work of equal value. It hopes that the Government will consider asking the ILO for technical assistance in this regard. The Committee also asks the Government to report on the steps taken to this end, as well as on any other specific measures taken to examine and address the gender pay gap 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.**

## Jordan

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1963)**

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

*Legislative framework.* The Committee recalls that, in its previous observation, it welcomed the findings and recommendations of the legal review on pay equity conducted by the National Steering Committee for Pay Equity (NSCPE), with ILO support, and asked the Government to provide information on the steps taken to implement the recommendations arising out of the legal review as they relate to the Convention, in particular with respect to the proposed amendments to sections 4 and 29A(6) of the Labour Law, with a view, respectively, to: (i) explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds enumerated in *Article 1(1)(a)* of the Convention, in all areas of employment and occupation, and covering all workers; and (ii) providing clear protection and remedies with respect to quid pro quo and hostile environment sexual harassment. The Committee notes that the Government does not provide information in its report on any of these matters. It however notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the harsh conditions and high risk of physical and sexual abuse faced by many girls engaged as domestic workers (CEDAW/C/JOR/CO/6, 9 March 2017, paragraph 43(h)). In this regard, the Committee wishes to emphasize the importance of taking effective measures to prevent and prohibit sexual harassment in employment and occupation and it refers to the specific guidance provided in its general observation of 2002 on the topic. It also recalls 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). **The Committee therefore again asks the Government to provide information on the steps taken to implement the recommendations of the NSCPE legal review on pay equity with a view to explicitly defining and prohibiting direct and indirect discrimination based on at least all the grounds enumerated in Article 1(1)(a) of the Convention, in all areas of employment and occupation, and covering all workers, as well as providing clear protection and remedies with respect to quid pro quo and hostile environment sexual harassment. The Committee also requests the Government to provide information on the measures taken in practice to raise awareness of and prevent and protect against sexual harassment in employment and occupation and on any cases relating to sexual harassment dealt with by the courts or detected by the labour inspectorate, and their outcomes.**

*Article 5. Special measures of protection. Restrictions on women's employment.* In its previous observation, the Committee referred to section 69 of the Labour Code, under which the Minister shall specify industries and occupations in which the employment of women is prohibited and the times during which women are prohibited from working, and asked the Government to take the opportunity of the ongoing legislative review process to amend section 69 of the Labour Code and the corresponding Ordinance No. 6828 of 1 December 2010, to ensure that any restrictions on women's employment are limited to maternity in the strict sense, and to provide information on any steps taken in this regard. Noting that the Government report is silent on this particular issue, the Committee recalls that protective measures applicable to women's employment which are based on stereotypes regarding women's professional abilities and role in society violate the principle of equality of opportunity and treatment between men and women in employment and occupation. It also wishes to stress 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 (see 2012 General Survey on the fundamental Conventions, paragraph 840). Such restrictions have to be justified (based on scientific evidence) and periodically reviewed in the light of developments and scientific progress in order to ascertain whether they are still needed and remain effective. **In the absence of information from the Government, the Committee reiterates its request to the Government to take the opportunity of the ongoing legislative review process to amend section 69 of the Labour Code and the corresponding Ordinance, to ensure that any restrictions on women's employment are limited to maternity in the strict sense, and to provide information on any steps 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.**

## Lebanon

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1977)**

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. Gender pay gap.* The Committee recalls its previous comments in which it noted that, according to statistics published in October 2011 by the Central Statistics Office, in 2007 the gender pay gap was an estimated 6.2 per cent in services; 10.8 per cent in commerce; 21 per cent in agriculture; 23.8 per cent in manufacturing; and 38 per cent in transport and communications. **In the absence of updated information in this regard in the Government's report, the Committee once again requests it to take the necessary steps to gather, analyse and communicate data on the remuneration of men and women and wage gaps in the different sectors of economic activity, including the public sector, and for different professional categories. The Committee once again requests the Government to adopt specific measures to rectify gender pay gaps, including raising awareness among employers, workers and their organizations of the principle of equal remuneration for men and women for work of equal value, and to provide information on any action taken to this end and on any obstacles encountered.**

*Article 2. Legislation. Equal remuneration for men and women for work of equal value.* For more than 40 years the Committee has been requesting the Government to ensure that the principle of equal remuneration for men and women for work of equal value is given full legal expression. The Committee notes with **regret** that the Government's report merely indicates that the new draft Labour Code is still under examination. **The Committee is therefore bound to urge the Government to ensure that the draft Labour Code gives full legal expression to the principle of equal remuneration for men and women for work of equal value, in order to facilitate a broad scope of comparison encompassing not only equal or similar work, but also work of an entirely different nature that is of equal value overall. Expressing the firm hope that the Government will be in a position to**

*report progress on this matter in the near future, the Committee asks the Government to provide a copy of the relevant provisions when they have been adopted.*

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: 1977)**

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. Protection of workers against discrimination, including sexual harassment. Law and practice.* For more than 20 years the Committee has been requesting that the Government introduce a definition and a general prohibition of direct and indirect discrimination on the grounds set out in *Article 1(1)(a)* of the Convention, within the framework of the Labour Code reform, applicable to all aspects of employment and occupation. The Committee recalls that the Labour Code currently in force (the Labour Code of 1946, as amended) only covers discrimination between men and women in certain aspects of employment (section 26) and does not provide effective protection against all forms of sexual harassment, namely quid pro quo and hostile working environment sexual harassment. Indeed, the only section of the 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 the offence of molestation of the worker" (section 75(3)). The Committee recalls in this regard that legislation under which the sole redress available to victims of sexual harassment is the possibility to resign, while retaining the right to compensation, does not afford sufficient protection for victims of sexual harassment since it punishes them and could therefore dissuade victims from seeking redress (see 2012 General Survey on the fundamental Conventions, paragraph 792). The Committee notes with *regret* that the Government's report does not contain any information on the progress or content of the ongoing reform of the Labour Code. However, the Committee observes that, according to the third annual report (2015) on the implementation of the National Strategic Plan for Women in Lebanon (2011–21), the Ministry of Labour has prepared a bill criminalizing sexual harassment in the workplace. *Consequently, the Committee urges the Government to take the necessary steps 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, in all aspects of employment and occupation, as defined in Article 1(3), and all forms of sexual harassment (quid pro quo harassment and the creation of a hostile working environment). The Committee once again asks the Government to provide information on any progress made 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 workers against discrimination on the grounds of race, colour, religion, political opinion, national extraction and social origin, and against sexual harassment in employment and occupation, including measures to raise awareness of these issues among workers, employers and their respective organizations, in order to improve prevention.*

*Foreign domestic workers. Multiple discrimination.* For more than ten 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 women migrants, since these workers are excluded from the scope of the Labour Code and are particularly vulnerable to discrimination, including harassment, on the basis of sex and other grounds such as race, colour and ethnic origin. The Committee notes that, 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 in spite of the measures taken by the State party". The CERD also noted with concern that "victims are often not able to seek assistance when they are forcibly confined to the residence of their employers or when their passports have been retained". The CERD recommended the following measures: "abolish the conditions that render migrant domestic workers vulnerable to abuse and exploitation, including the sponsorship system and the live-in setting"; "extend the coverage of the Labour Code to domestic work, thereby granting domestic workers the same working conditions and labour rights as other workers, including the right to change occupation, and subjecting domestic work to labour inspections"; "ensure that any specific legislation on domestic employment is aimed at tackling migrant domestic workers' increased vulnerability to abuse and exploitation"; and "conduct campaigns to change the population's attitudes towards migrant domestic workers and to raise awareness of their rights" (CERD/C/LBN/CO/18–22, 5 October 2016, paragraphs 41–42). The Government reports that domestic workers are covered by the Code of Obligations and Contracts, and once again refers to the model contract and the Bill on the employment of domestic workers. The Government also indicates that a Bill to ratify the Domestic Workers Convention, 2011 (No. 189), was submitted to the Council of Ministers and that the national steering committee of the Ministry of Labour, which is responsible for examining relations between employers and domestic workers, is currently developing significant measures to guarantee compliance with contracts and abolish the sponsorship system. However, the Government states that this process will take time. In this regard, the Committee notes the Government's indication that the Ministry of Labour and official bodies have not established restrictions regarding changes of employer and that this is an issue that only concerns the worker and the employer. *Recalling its previous comments and noting with regret that the situation remains unchanged, the Committee urges the Government to take the necessary measures, in cooperation with the social partners, to ensure genuine protection for migrant domestic workers, 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 bill on the employment of domestic workers or, more generally, within the framework of the labour legislation. The Committee asks the Government to supply information on any progress made in this regard and on any legislative changes to abolish the sponsorship system. The Committee asks the Government, in particular, to ensure that any new regulations envisaged on the right of migrant workers to change employers do not impose conditions or restrictions likely to increase these workers' dependence on their employer and thus increase their vulnerability to abuse and discriminatory practices.*

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

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1962)**

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

*Article 1(b) of the Convention. Equal remuneration for men and women for work of equal value.* The Committee notes with **interest** the Government's indication that under section 21 of the Labour Relations Act (LRA 2010), there shall be no discrimination in remuneration for work of equal value on the basis of race, colour, sex or religion. The Government further indicates that section 24 of the LRA 2010 prohibits discrimination between men and women in remuneration for work of equal value. **The Committee requests the Government to provide information on any relevant court cases regarding the application of sections 21 and 24 of the LRA 2010.**

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: 1961)**

The Committee notes the observations of the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC), received respectively on 26 August and 1 September 2019.

The Committee notes the complexity of the situation prevailing on the ground and the armed conflict in the country.

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussion which took place in the Conference Committee on the Application of Standards (CAS) on the application of the Convention and of the conclusions adopted.

*Articles 1 and 3(b) of the Convention. Definition of discrimination. Draft Constitution.* The Committee notes that, in its conclusions, the CAS asked the Government to amend Article 7 of the draft Constitution to ensure that the grounds of race, national extraction and social origin are included as prohibited grounds of discrimination. The Committee takes note of the observations of the IOE and ITUC that both organizations called on the Government to amend article 7 of the draft Constitution. The Committee notes the Government's indication in its report that the Minister of Labour and Rehabilitation addressed two letters (letters Nos 791 and 789, both dated 29 August 2019) to the President of the Presidential Council on the possibility of incorporating these changes into the draft Constitution and into the Constitution when adopted. **The Committee hopes that the draft Constitution will be amended as requested and asks the Government to provide information on any developments in this regard.**

*Labour legislation.* In its previous comment, the Committee noted that Law No. 12 of 2010 promulgating the Labour Relations Act (LRA 2010) does not contain a definition of discrimination. It also noted that section 3 of the LRA 2010 prohibits discrimination on the grounds of "trade union affiliation, social origin or any other discriminatory ground", but does not explicitly include the grounds of race, colour, sex, religion, political opinion and national extraction. In its conclusions, the CAS asked the Government to: (i) take concrete actions to ensure that direct and indirect discrimination on all grounds is prohibited in law and in practice; (ii) ensure that the legislation covers, directly and indirectly, all the recognized prohibited grounds for discrimination set out in *Article 1(1)(a)*, of the Convention, and take measures to prohibit discrimination in employment and occupation in law and in practice; and (iii) include a definition of the term "discrimination" in the LRA 2010. The Committee takes note of the observations of the IOE and ITUC that both organizations called on the Government to amend the LRA 2010 in accordance with the conclusions of the CAS. In this regard, the Committee takes note of the Government's indications that the words "or any other discriminatory grounds" in section 3 of the LRA 2010 cover all forms of discrimination without exception, and that the possibility to include the definition contained in *Article 1(1)(a)*, of the Convention into the new draft labour law is being taken into consideration. **The Committee requests the Government to take measures to ensure that the national legislation includes a clear and comprehensive definition of discrimination in employment and occupation covering at least all the grounds protected under Article 1(1)(a), of the Convention, and to provide information in this respect.**

*Articles 1 to 3. Discrimination on the basis of race, colour and national extraction. Sub-Saharan migrant workers.* The Committee notes that in its conclusions, the CAS asked the Government to: (i) ensure that migrant workers are protected from ethnic and racial discrimination and from forced labour; (ii) educate and promote equal employment and opportunities for all; (iii) take immediate action to address the situation of racial and ethnic discrimination against migrant workers from sub-Saharan Africa (including women migrant workers) and, in particular, put an end to forced labour migration practices; and (iv) conduct surveys to examine the situation of vulnerable groups, including migrant workers, in order to identify their problems and possible solutions. The Committee also takes note of the observations of the ITUC indicating that migrant workers from sub-Saharan Africa, and in particular women, remain especially at risk of discrimination. For the ITUC, the Government should adopt and provide information on the concrete measures taken or envisaged to ensure that the prohibition in law and practice of direct and indirect discrimination is effective for all workers on the Libyan territory, regardless of their origin, nationality or status. The ITUC further calls for the adoption of measures to ensure that victims of discrimination have access to justice and obtain protection from reprisals and compensation for the damage suffered, and

that effective, proportionate and dissuasive penalties are imposed on the perpetrators of discriminatory behaviour. Lastly, the ITUC underlines the fundamental importance of building the capacity of inspection services with a view to combating all forms of discrimination in employment and occupation. The Committee takes note of the information provided by the Government on its efforts to combat human trafficking, and specifically that: (i) the national legislation prohibits human trafficking; (ii) a bill increasing the penalties for human trafficking is currently under review by the legislative authorities; (iii) the Office of the Public Prosecutor is investigating cases of abuse; and (iv) victims who cannot afford to pay their legal fees can be assisted by a counsel appointed by the court. The Committee also notes the Government's indication that it is collaborating with neighbouring countries the countries of origin of the victims and of the perpetrators, and with relevant local and international organizations such as the International Organization for Migration, to combat human trafficking.

The Committee notes with *deep concern* the report of the United Nations Committee on the Protection of the Rights of All Migrant Workers and their Families (CMW) indicating that migrant workers from sub-Saharan Africa continue to be severely discriminated against, and that acts of physical and verbal abuse against them persist, including by Libyan officials, such as representatives of the Directorate for Combating Illegal Migration and the Libyan Coast Guard. The Committee also notes that, despite the fact that the LRA 2010 provides for mechanisms to resolve labour disputes, the CMW expresses great concern at the widespread impunity for violations of migrant workers' rights who are unable to seek justice for fear of being detained for illegal entry and stay (CMW/C/LBY/CO/1, 8 May 2019, paragraphs 28, 30 and 34). *While noting the information provided by the Government, the complexity of the situation prevailing on the ground and the armed conflict in the country, the Committee urges the Government to take further action to address the situation of racial and ethnic discrimination against migrant workers originating from sub-Saharan Africa, including measures to ensure that the legislation on non-discrimination is applied in practice, that migrant workers subject to discrimination in employment and occupation have access to remedies, irrespective of their legal status in the country, and to educate and promote equal employment and opportunities for all. The Committee asks the Government to provide information in this respect.*

*Technical assistance.* The Committee notes that the CAS invited the Government to continue to engage and actively participate in ILO technical assistance in order to promote equitable and effective labour migration policies. The Committee also takes note of the IOE's observations referring to three projects for which the Government would be receiving technical assistance from the Office: (i) the project "Building the capacity of Libyan constituents and national actors to address unacceptable forms of work and promote fair and effective labour migration policies"; (ii) the "Jobs for Peace and Resilience Flagship Programme"; and (iii) the project "Support for Fair Migration for the Maghreb (AMEM)". *Noting that these projects are currently on hold, the Committee requests the Government to provide information on the resumption of technical assistance provided by the Office and its results.*

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

## Madagascar

### **Equal Remuneration Convention, 1951 (No. 100) (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 and 2 of the Convention. Equal remuneration for work of equal value. Legislation.* For several years, the Committee has been emphasizing that the provisions on equal remuneration 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 the Government's indication in its report that in March 2016 the National Conference of Labour Inspectors raised the issue of the amendment of certain provisions of the Labour Code, including section 53, and that a draft text to amend this provision will soon be submitted to the National Labour Council (CNT) to seek the views of the social partners on this subject. *While recalling that it considers that the full and complete incorporation into the legislation of the principle of equal remuneration for men and women for work of equal value is essential to ensure the effective application of the Convention, the Committee trusts that the Government will take the opportunity of the draft amendment of the Labour Code to achieve the full integration of the principle of the Convention in the new Labour Code, in cooperation with employers' and workers' organizations, and that it will ensure that the new provisions encompass not only equal work or work performed under equal conditions, but also work which is of an entirely different nature, but nevertheless of equal value. It requests the Government to provide information on any progress achieved in this regard and on any other measures adopted or envisaged to promote and ensure equal remuneration for men and women for work of equal value 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.*

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (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 of the Convention. Protection against discrimination.* For several years, the Committee has been emphasizing that neither the Labour Code nor the Civil Service Regulations prohibit discrimination on all the grounds covered by the Convention and has been asking the Government to take the necessary measures to bring the legislation into conformity with the Convention. The Committee noted that the Labour Code does not prohibit discrimination on the basis of colour and social origin (section 261),

and that the Civil Service Statute does not prohibit discrimination on grounds of race, colour and social origin (section 5). The Committee notes the Government's indication in its report that, in March 2016, the National Labour Inspectors Conference (SAIT) raised the issue of amending the Labour Code provisions concerning prohibited grounds for discrimination and that a draft to introduce colour and social origin into the list of these grounds and expressly prohibit all discrimination, including indirect discrimination, will be transferred shortly to the National Labour Council (CNT) in order to gather the opinions of the social partners in this regard. With regard to the public service, the Committee notes the Government's indication that, while it considers that the term "colour" is not appropriate to the reality of Malagasy society, it is currently studying the possibility of including this motive in the list of grounds of prohibited discrimination. The Government adds that it also plans to introduce the provisions defining and prohibiting all discrimination, including indirect discrimination, and that all these issues will be raised during the forthcoming revision of the Civil Service Regulations. ***The Committee requests the Government to provide information on progress made regarding the revision of the Labour Code and the Civil Service Regulations to harmonize and supplement national legislative provisions in order to prohibit, in both the public and the private sectors, any discrimination on all of the grounds listed in the Convention, including race, colour and social origin, and to include a definition of discrimination which explicitly covers indirect discrimination. The Committee requests the Government to indicate any measures taken or envisaged in this respect, in cooperation with workers' and employers' organizations. The Committee also requests the Government to provide information on the interpretation and application in practice of section 261 of the Labour Code and section 5 of the Civil Service Regulations, and to provide copies of any administrative or judicial decisions issued in accordance with these provisions.***

***Discriminatory job vacancy announcements.*** In its previous comments, the Committee noted the allegations of the General Confederation of Workers' Unions of Madagascar (FISEMA) concerning the fact that vacancies for jobs as guards, domestic employees or workers in export processing zones advertised on the radio or through notices in the street, impose affiliation to a certain religion as a condition for recruitment or specify that the job is solely for men or women. The Committee notes the Government's statement that some advertisements for vacancies on radio or through notices in public places, are discriminatory in nature with regard to religion or sex. Given that the advertisement of job vacancies on the radio or on public notices has become common practice, the Government indicates that it envisages adopting legislation to regulate this practice in line with the provisions of the Convention. ***The Committee trusts that the Government will adopt, in cooperation with the workers' and employers' organizations, measures aimed at enforcing national legislation and prohibiting in practice all forms of direct and indirect discrimination on all the grounds listed in the Convention, including religion and sex, in job vacancies advertised on the radio or on public notices. It requests the Government to provide information on any progress made in this regard.***

***Domestic workers.*** In its previous comments, the Committee noted that the Christian Confederation of Malagasy Trade Unions (SEKRIMA) highlighted the precarious nature of the conditions of employment of domestic workers, some being employed without an employment contract. The Committee notes the Government's indication that domestic workers enjoy the same rights as other workers, as labour legislation is applicable to them and they can lodge complaints with the labour inspectorate in cases of violations of their rights. The Committee notes, however, that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern about the precarious situation of women and girls in domestic work in private households and recommended that the Government strengthen the capacity of labour inspectors to monitor workplaces, including in private households (CEDAW/C/MDG/CO/6-7, 24 November 2015, paragraphs 30–31). ***The Committee trusts that the Government will take the necessary measures to ensure that domestic workers enjoy, in practice, the protection set out in the provisions of the Labour Code, particularly those relating to non-discrimination and employment conditions. It requests the Government to provide detailed information on the number and outcomes of checks conducted by labour inspectors to ensure the effective application of the provisions of the Labour Code for domestic workers, by sending extracts from inspection reports or relevant studies.***

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.***

## Malawi

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1965)***

***Article 1(1)(a) of the Convention. Discrimination based on sex. Sexual harassment.*** The Committee recalls that it previously asked the Government to consider amending the definition of sexual harassment in section 6(1) of the Gender Equality Act (GEA) of 2013 to explicitly include hostile work environment harassment and to ensure that the "reasonable person" in the definition of harassment no longer refers to the harasser, but to an outside person, in order to ensure effective protection against all forms of harassment in the workplace. While noting that the Government's report does not contain any information in this respect, the Committee notes the inclusion in the Malawi Public Service Management Policy 2018–2022 of a strategy to "implement programmes aimed at eliminating all forms of violence in the workplace and at home including gender-based violence, particularly sexual violence". ***In order to ensure comprehensive protection against sexual harassment, the Committee asks the Government to amend section 6(1) of the GEA 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 asks the Government to provide information on the measures adopted pursuant to section 7 of the GEA to ensure that employers have developed and are implementing appropriate policies and procedures aimed at eliminating sexual harassment in the workplace. Further, the Committee asks the Government to take steps to address sexual harassment in the public service, including the provision of adequate reporting procedures, remedies and sanctions. It also encourages the Government to consider conducting awareness-raising campaigns, in cooperation with workers' and employers' organizations, focusing specifically on sexual harassment in employment and occupation.***

***Article 2. National Equality Policy. Promoting equality and inclusiveness in the public service.*** The Committee welcomes the provision by the Government of statistics on the distribution of men and women in decision-making positions (grades A–F). These statistics show that women never exceed more than 26 per cent of the composition of staff in these

grades (25 per cent in the higher grade A, or only one woman, and 10 per cent in grade B). The Committee notes with *interest* the adoption in February 2018 of the Malawi Public Service Management Policy 2018–2022, which explicitly refers to the numerous Acts, including the Employment Act of 2000 and the GEA of 2013. The Committee further notes that the policy recognizes that “the public service is not inclusive enough in terms of gender” and other groups and that “there are perceptions that people with disabilities and people from different cultures are not equitably represented in the public service [and a] perception of dominance of a few groups of people in strategic positions based on political affiliations and tribe”. According to the policy, the Government will take the following steps: promoting inclusiveness and equity in employment; adopting legislative, executive and administrative measures that guarantee the right to employment and promotion of women, ethnic minorities and people with disabilities, marginalized and vulnerable social groups, in line with GEA and other legislation; and implementing a strategic and systematic approach to human resource development in the public service. ***The Committee asks the Government to take the necessary steps to implement the strategy on equality and diversity in the Public Service Management Policy, and particularly to adopt legislative, executive and administrative measures to that end, and to effectively promote equal opportunities and treatment for all at all levels in the public service through training and awareness-raising. The Government is asked to provide specific information on the results achieved through this policy with respect to the employment of women, persons with disabilities and persons from vulnerable or marginalized groups, and to report any obstacles encountered.***

*Promoting gender equality. National Gender Policy of 2015 and Gender Equality Act of 2013.* The Committee recalls the adoption of the National Gender Policy in 2015, which includes as one of its objectives the creation of “a favourable environment for equal employment opportunities and benefits for women and men in both formal and informal sectors” through the elimination of occupational segregation and discrimination and the review of labour laws. It also recalls the adoption of the Gender Equality Act (GEA) in 2013, which aims to promote gender equality and prohibits and provides redress for direct and indirect sex discrimination, harmful practices and sexual harassment. The GEA also provides for the introduction of programmes designed to raise awareness of its provisions. The Committee notes with *interest* that the Government has taken the following steps to promote the GEA: an Implementing and Monitoring Plan for the GEA was launched in 2016; the Committee on Gender was established; awareness-raising meetings targeting magistrates, police officers, representatives of the private sector and community-based and civil society organizations were conducted throughout the country; dissemination of the Act to various stakeholders was organized; and a teaching guide on the GEA was published. The Committee notes the Government’s indication that there is a need for rules and regulations on gender equality to be developed and for the provisions on gender in other laws, such as the Public Service Act, the Service Commission Act and the Human Rights Commission Act, to be reviewed and harmonized with the provisions of the GEA. The Government also emphasizes the need to intensify civic education and awareness campaigns targeting traditional leaders and women and acknowledges that there is still a long way to go to achieve gender equality, in particular in employment, training and education. ***The Committee asks the Government to continue disseminating information to raise awareness of the GEA and to intensify its efforts in this regard among workers, employers and their organizations. The Committee asks the Government to take steps to adopt the rules and regulations pursuant to the GEA and to review the provisions on gender equality in other legislation in light of the GEA. It also asks the Government to provide information on the Implementing and Monitoring Plan for the GEA and any measure adopted to promote equal employment opportunities and benefits for women and men in both the formal and informal economy pursuant to the National Gender Policy.***

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

## Malaysia

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)**

*Articles 1(a) and (b), and 2 of the Convention. Equal remuneration for work of equal value. Legislation.* In its previous comment, the Committee noted the Government’s indication that the suitability of incorporating the principle of the Convention into its national legislation would be examined in the framework of the ongoing review of its labour legislation, and more particularly of the Employment Act, in reply to the Committee’s long-standing request. It also requested the Government to ensure that its national legislation allows for the comparison not only of the same jobs, but also of work of an entirely different nature which is nevertheless of equal value, taking into account that equality must extend to all elements of remuneration as indicated in *Article 1(a)* of the Convention and to provide information regarding the progress made in this regard and consider forwarding a copy of the draft legislation to the Office for its review. The Government indicates in its report that the Ministry has incorporated anti-discriminatory provisions in the proposed amendments to the Employment Act 1955 which would include the protection against unequal remuneration for men and women. The Act is undergoing a holistic review on all its provision and it is expected to be tabled by the end of 2019. The Committee notes that the UN Committee on the Elimination of Discrimination Against Women (CEDAW) in its concluding observations in 2018, recommended that Malaysia reduce the existing gender wage gap by regularly reviewing wages in sectors in which women are concentrated, and establishing effective monitoring and regulatory mechanisms for employment and recruitment practices to ensure that the principle of equal pay for work of equal value is guaranteed in national legislation and adhered to in all sectors (CEDAW/C/MYS/CO/3-5, 9 March 2018, paragraph. 38(c)). ***The Committee reiterates the importance of ensuring that the amendment of the Employment Act 1955 will expressly incorporate the principle of equal remuneration for men and women for work of equal value into its national legislation and allow for the comparison not***

*only of the same jobs, but also of work of an entirely different nature which is nevertheless of equal value, taking into account that equality must extend to all elements of remuneration as indicated in Article 1(a) of the Convention. In this regard, it reiterates its request that the Government consider forwarding a copy of the draft legislation to the Office for its review.*

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

## Malta

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1988)**

*Legislative developments.* The Committee previously requested the Government to provide information on the application of sections 3(A)(1) and 3(A)(2) of the Equal Treatment in Employment Regulations, subsequent to the amendment made in 2007, in particular as regards the manner in which “work of equal value” is determined and what is considered to be included as “remuneration”. The Committee notes the Government’s general indication, in its report, that “work of equal value” and “remuneration” are determined on a case by case basis by the Industrial Tribunal as these have not been defined by the current legislation. However, the Committee notes that, in its 2018 conclusions, the European Committee of Social Rights (ECSR) concluded that it has not been established that the principle of equal pay is effectively guaranteed in practice (ECSR, conclusions of 2018, p. 12). The Committee further notes that, as highlighted by the European Commission against Racism and Intolerance (ECRI) in its 2018 report, an Equality Bill is under preparation with the aim of presenting the equality legal framework in one comprehensive legislative Act. It further notes that a Human Rights and Equality Commission Bill, which would replace the current National Commission for the Promotion of Equality (NCPE), is also under preparation. Both bills were presented to Parliament in 2017 and are still before Parliament (CRI(2018)19, paragraphs 14 and 18). *The Committee reiterates its request to the Government to provide specific information on the practical application of sections 3(A)(1) and 3(A)(2) of the Equal Treatment in Employment Regulations, including by providing concrete examples on the manner in which the terms “work of equal value” and “remuneration” have been interpreted in practice, including by the Industrial Tribunal. It asks the Government to provide a copy of any administrative or judicial decisions concerning equal remuneration for men and women for work of equal value, as well as on any activities undertaken to raise public awareness of the principle of equal remuneration for men and women for work of equal value. The Committee trusts that the Government will seize every opportunity to ensure that any new legislation will explicitly define and give full expression to the principle of equal remuneration between men and women for work of equal value, in particular as regards the manner in which “work of equal value” is determined and what is considered to be included as “remuneration”, and asks the Government to provide information on the status of the Equality Bill and the Human Rights and Equality Commission Bill, as well as a copy of both pieces of legislation once adopted.*

*Articles 1 and 2 of the Convention. Addressing the gender pay gap.* Referring to its previous comments, the Committee notes the Government’s comments concerning the activities carried out by the NCPE in relation to the gender pay gap, such as the organization of a national Conference in 2015, the awarding of the “Equality Mark Certification” to 78 companies by August 2017, as well as awareness-raising activities such as the “PayMeEqually” campaign launched in November 2017. It also notes that several initiatives were implemented to enhance women’s participation in decision-making positions. The Committee however notes that, according to the last available Labour Force Survey (LFS) published by the National Statistics Office, although the employment rate of women slightly increased from 59.1 per cent at the end of 2017, to 61.5 per cent at the end of 2018, it remained substantially lower than the employment rate of men (81.2 per cent and 82.3 per cent, respectively). It notes that women are still concentrated in low-paid jobs and continued to be underrepresented in decision-making positions, with only 6.2 per cent of women were employed as managers at the end of 2018, compared to 13.2 per cent of men. The Committee notes with **concern** that, according to the NCPE annual report, in 2017, women represented only 28.2 per cent of civil servants employed in the top five salary scales, compared to 71.8 per cent of men. It further notes that, according to the LFS, the average annual basic salary of women employed in the same economic activity or in the same occupational group as men was systematically substantially lower than that of men, and that the average pay differentials between men and women increased from 17.9 per cent at the end of 2017, to 18.9 per cent at the end of 2018 (Labour Force Survey (Q4/2018), tables 4 and 10–15, 25 March 2019). It notes that, according to Eurostat, the unadjusted gender pay gap increased from 9.7 per cent in 2013 to 12.2 per cent in 2017. *In light of the increasing gender pay gap, the Committee urges the Government to strengthen its efforts to take proactive measures, in collaboration with employers’ and workers’ organizations and the NCPE or any other relevant institution, to raise public awareness, make assessments, and promote and enforce the application of the principle of equal remuneration for men and women for work of equal value. It asks the Government to provide information on the specific measures taken to reduce and address the gender pay gap, including by addressing occupational gender segregation and promoting women’s access to high-level positions and higher-paid jobs and by encouraging more girls to take up Science, Technology, Engineering and Mathematics (STEM) subjects which can lead to better paid and more secure jobs. It asks the Government to continue to provide updated statistical information on the earnings of men and women in the public and private sectors, disaggregated by economic activity and occupation.*

*Article 3. Objective job evaluation.* The Committee previously requested the Government to provide information on the measures taken to implement the recommendations of the NCPE regarding the adoption of a national system of objective job evaluation. Noting the Government's statement that it needs to be ensured that the principle of the Convention is implemented in practice to continue combating gender discrimination in employment, the Committee wishes to recall that no society is free from discrimination and constant efforts are needed to take action against it. Furthermore, the principle of equal remuneration for men and women for work of equal value requires the use of appropriate techniques for objective job evaluation to determine and compare the relative value of work, comparing factors such as skills, effort, responsibilities, and working conditions, using criteria that are free from gender bias. In particular, it is important to ensure that the selection of factors for comparison, the weighting of such factors and the actual comparison carried out are not discriminatory, either directly or indirectly (see General Survey of 2012 on the fundamental Conventions, paragraphs 675 and 701). **The Committee again asks the Government to indicate the measures taken to promote the development and use of job evaluation methods based on objective criteria in the private sector, in collaboration with employers' and workers' organizations, as well as in the public sector. It asks 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.

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1968)**

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination. Legislative developments.* For a number of years, the Committee has been drawing the Government's attention to the absence of legislation or practical measures providing protection against discrimination on the ground of social origin. It notes the Government's indication in its report that the definition of "discriminatory treatment" in the Employment and Industrial Relations Act (EIRA), 2002, is non-exhaustive so that even though "social origin" is not specified, it could be a ground for discrimination under the Act. The Committee recalls that when legal provisions are adopted to give effect to the principle of the Convention, they should include at least all of the grounds set out in *Article 1(1)(a)* of the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 853). The Committee notes, however, that, as highlighted by the European Commission against Racism and Intolerance (ECRI) in its 2018 report, an Equality Bill is currently being prepared with the aim of introducing comprehensive legislation on discrimination in a single Act. It further notes that a Bill is also under preparation, which would replace the current National Commission for the Promotion of Equality (NCPE) with a Human Rights and Equality Commission. Both Bills were presented to Parliament in 2017, but are still in the process of enactment (CRI (2018)19, paragraphs 14 and 18). **The Committee hopes that the Government will take this opportunity to ensure that any new legislation explicitly prohibits direct and indirect discrimination in all aspects of employment and occupation, on at least all of the seven grounds set out in Article 1(1)(a) of the Convention, including social origin, while also ensuring that the additional grounds already enumerated in the national legislation are maintained in the new legislation. It asks the Government to provide information on the status of the Equality Bill and the Human Rights and Equality Commission Bill, and to provide a copy of both texts once adopted.**

*Articles 2 and 3. Equality of opportunity and treatment irrespective of race, colour or national extraction.* Referring to its previous comments on the initiatives taken to combat racial and ethnic discrimination, the Committee notes the Government's indication that several awareness-raising activities, targeting in particular the African minority in Malta, as well as training sessions have been carried out by the NCPE, mainly focusing on diversity in the workplace. It welcomes the adoption of the first National Migrant Integration Strategy 2017–20 and its accompanying Action Plan (Vision 2020), launched in December 2017, which provide for awareness-raising campaigns concerning the attributes and needs of most vulnerable and stereotyped migrants. They also include mainstreaming integration policies and measures targeted at migrants, in particular in sectors such as education and employment. The Committee notes the detailed statistical information provided by the Government on the number of participants in training programmes and employees in the public and private sectors, disaggregated by gender and nationality. It notes that, according to Eurostat, Malta recorded the highest rates of immigration in 2017 (46 immigrants per 1,000 persons). However, the Committee notes that, in the context of the Universal Periodic Review, the United Nations Human Rights Council issued recommendations regarding the strengthening of the Government's efforts to combat racial discrimination, in particular in access to employment, and the eradication of stereotypes and discrimination against migrants (A/HRC/40/17, 18 December 2018, paragraph 110). It further notes that the UN Special Rapporteur on the human rights of migrants also expresses concern at the exploitation by employers of migrants in an irregular situation, asylum seekers and refugees, who are made to work long hours and paid less than the minimum wage, without the required safety equipment or insurance, often in the construction, tourism and caregiving industries. According to the Special Rapporteur, such workers refrain from protesting and mobilizing due to their fear of being detected, detained and deported. The Special Rapporteur also observed that, while those contractors and subcontractors who are found to have exploited workers, including migrants, could be blacklisted and denied government contracts for a period of three years, sanctions against employers are rare in practice (A/HRC/29/36/Add.3, 12 May 2015, paragraphs 95 and 96). The Committee notes that in its 2018 report ECRI also expresses concern at the high number of complaints of extremely low wages and exploitation in unregistered employment, mostly among refugees (CRI(2018)19, paragraph 77). The Committee wishes to point out that under the Convention all migrant workers, including those in an irregular situation, must be protected from discrimination in employment on the basis of the grounds set out in *Article 1(1)(a)* of the Convention (see 2012 General

Survey, paragraph 778). *The Committee urges the Government to take proactive measures to combat stereotypes and discrimination based on race, colour or national extraction, and to effectively ensure equality of opportunity and treatment of migrant workers, including those in an irregular situation, asylum seekers and refugees, in education, training, employment and occupation, pursuant to the Convention. It also asks the Government to provide specific information on the implementation of any programmes undertaken in that regard, both at the national and enterprise levels, including in the framework of the National Migrant Integration Strategy and Action Plan 2017–20, as well as a copy of any relevant studies and reports evaluating their impact. It further asks the Government to provide information on the number and nature of cases in which migrant workers, asylum-seekers and refugees have faced racial stereotyping and discrimination in education, training, employment and occupation which have been dealt with by the NCPE, the labour inspectorate or the courts, as well as on the remedies provided.*

*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.

## Mongolia

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1969)**

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. Work of equal value. Legislation.* The Committee refers to its previous comments in which it noted the lack of reference to the principle of the Convention both in the Labour Law and in the Law on the Promotion of Gender Equality (LPGE), and stressed the importance of seizing the opportunity provided by Labour Law reform to incorporate the concept of "work of equal value" into the national legislation and adopt a broad definition of "remuneration", in accordance with the Convention. The Committee notes the Government's indication that the new draft Labour Law reflects the principle of equal remuneration for men and women for work of equal value, and that this principle applied not only to the basic salary but also to any additional emoluments arising out of the worker's employment. The Committee further notes from the Progress Report (October 2017) on the ILO–European Commission Project "Sustaining GSP-Plus beneficiary countries to effectively implement ILO standards and comply with reporting obligations" that the Government proposed to submit the draft revised Labour Law in late 2017 for Parliamentary consideration, and that key amendments, endorsed by tripartite working groups, provide for the inclusion of the principle of equal remuneration for work of equal value. *The Committee welcomes the revisions introduced in the draft Labour Law and asks the Government to provide a copy of the new Labour Law once it is adopted.*

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: 1969)**

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. Legislative developments.* The Committee refers to its previous comments on the elaboration of the new Labour Law and notes the Government's indication that the new draft Labour Law will, when adopted, contribute significantly towards bringing the national legal framework into line with the Convention, including as regards prohibited grounds of discrimination, the exclusion of women from certain occupations, sexual harassment, restrictions relating to the inherent requirements of the job, and the protection of workers with family responsibilities. *The Committee welcomes these changes and hopes that the new Labour Law will soon be adopted and will be in full conformity with the Convention.*

*Exclusion of women from certain occupations.* The Committee recalls its previous comments concerning the exclusion of women from a wide range of occupations under section 101.1 of the Labour Law of 1999 and Order No. 1/204 of 1999 which was annulled in 2008. It notes the Government's indication that this change was not well publicized, with the result that many employers still consider these restrictions to be in force. The Government also indicates that under the new draft Labour Law it will not be competent to adopt a list of prohibited jobs for women. *The Committee asks the Government to take proactive steps to raise public awareness about the absence of restrictions on the recruitment of women in certain occupations and asks the Government to*

*ensure that the new Labour Law will strictly limit the exclusion of women from certain occupations to measures aimed at protecting maternity.*

*Article 1(2). Inherent requirements.* The Committee refers to its previous comments concerning section 6.5.6 of the Law on Promotion of Gender Equality of 2011 (LPGE) which allows for sex-specific job recruitment “based on a specific nature of some workplaces such as in pre-school education institutions”. The Committee also noted that the scope of other provisions of the LPGE are overly broad in permitting sex-based distinctions (sections 6.5.1 and 6.5.2). The Committee notes from the Government’s report that such limitations are not contemplated in the new draft Labour Law which conforms to the concept of inherent requirements of a particular job enshrined in *Article 1(2)* of the Convention. ***The Committee urges the Government to review sections 6.5.1, 6.5.2 and 6.5.6 of the LPGE in order to ensure that they do not in practice deny men and women equality of opportunity and treatment in respect of their employment, and hopes that the provisions related to inherent requirements of the job in the new Labour Law will be in conformity with the Convention, and will be adopted soon.***

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***

## Nepal

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1976)**

*Articles 1 and 2 of the Convention. Work of equal value. Legislative developments.* For a number of years, the Committee has been drawing the Government’s attention to the fact that article 13(4) of the interim Constitution and Rule No. 11 of the Labour Regulations, 1993, were narrower than the principle of the Convention, as they did not encompass the concept of “work of equal value”. The Committee notes that, despite its recommendations, article 18(4) of the new Constitution of 2015 and section 18(3) of the new National Civil Code of 2017, which entered into force on 17 August 2018, both merely reproduce the previous provision of the interim Constitution providing that there shall be no discrimination with regard to remuneration and social security between men and women “for the same work”. It takes also note of the adoption of the new Labour Act of 2017 and Labour Regulations of 2018, which apply to all entities in both the formal and informal sectors, including domestic workers, but excludes the civil service, Nepal army, police and armed forces, entities incorporated under other prevailing laws or situated in “special economic zones” (to the extent separate provisions are provided), as well as working journalists (unless specifically provided in the contract) (section 180). The Committee, however, notes with *interest* that section 7 of the Labour Act provides that there shall be no discrimination with regard to remuneration between men and women “for work of equal value”, which shall be assessed on the basis of the nature of work, time and efforts required, skills and productivity. It further notes the adoption of the Decent Work Country Programme (DWCP) for 2018–22 which sets as a specific outcome the fact that “tripartite constituents have enforced the new Labour Act of 2017 and Labour Regulations of 2018”, and defined as indicator “an increased number of workers benefiting from the provisions of the Labour Act”, as it is estimated that only 5 per cent of workers currently benefit from such provisions. Noting the Government’s statement, in its report, that the Labour Act which provides for equal remuneration for “work of equal value” is exactly in line with the Constitution which refers to equal remuneration for the “same work”, the Committee wishes to draw attention to the fact that the concept of “work of equal value”, which is fundamental to tackling occupational gender segregation in the labour market, 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 General Survey on fundamental Conventions, 2012, paragraph 673). The Committee notes that the Government solicits ILO technical assistance to ensure the full implementation of the new Labour Act, in particular concerning the assessment of work of different nature which are nevertheless of equal value. ***Welcoming the adoption of the new Labour Act of 2017 and Labour Regulations of 2018, the Committee asks the Government to provide information on the application of section 7 of the Labour Act in practice, indicating how the term “work of equal value” has been interpreted on the basis of the criteria enumerated in the Labour Act, including by providing information on any cases of pay inequality dealt with by the labour inspectors, the courts or any other competent authority, the sanctions imposed and remedies granted. In light of article 18(4) of the new Constitution of 2015 and section 18(3) of the new National Civil Code of 2017 which are narrower than the principle of the Convention, it asks the Government to provide information on the measures taken to ensure that: (i) discrepancies between recently adopted legislations do not undermine the protection granted under the Labour Act; and (ii) the principle of the Convention is applied to all workers, including those excluded from the scope of application of the Labour Act, such as for example civil servants and members of the Nepal police, army and armed forces. The Committee asks the Government to provide information on the measures taken to raise awareness of the meaning and scope of application of the principle of equal remuneration for work of equal value and the relevant provisions of the Labour Act of 2017 and Labour Regulations of 2018, in particular in the framework of the Decent Work Country Programme for 2018–22, among workers, employers and their representative organizations, as well as among law enforcement officials, and of the remedies and procedures available, including detailed information on the contents of the training provided and awareness-raising activities undertaken to that end. 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.

## ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1974)***

*Article 1 of the Convention. Protection against discrimination. Legislation.* For a number of years, the Committee has been noting that the labour legislation reform process was under way and requested the Government to ensure that the new legislation defines and prohibits direct and indirect discrimination on at least all the grounds set out in *Article 1(1)(a)* of the Convention, and covers all workers and all aspects of employment and occupation. The Committee notes with *interest* the recent adoption of several legislative provisions on non-discrimination, namely:

- Article 18(1) of the new Constitution of 2015, which provides that every citizen shall be equal before the law, and Article 18(2), which provides that there shall be no discrimination in the application of general laws on the grounds of origin, religion, race, caste, tribe, sex, physical conditions, disability, health conditions, matrimonial status, pregnancy, economic condition, language or geographical region or ideology or any other such grounds;
- the new Labour Act of 2017 (section 180) and the Labour Regulations of 2018 (section 6) which prohibit discrimination on the basis of sex at work, covering all entities both in the formal and informal sectors, but excluding in particular the civil service, as well as the Nepal army, police and other armed forces from their scope of application;
- the new National Civil Code of 2017, which entered into force on 17 August 2018, which provides that there shall be no discrimination in the application of general laws and no person shall be discriminated against in any public and private place on the grounds of origin, religion, colour, caste, race, sex, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language, region, ideological conviction or on similar other grounds (section 18(1) and (2)). Section 18(4) provides that any citizen appointed to a governmental or public office shall be appointed only on the basis of the qualifications determined by law and shall not be discriminated against on the grounds of origin, religion, colour, caste, race, sex, physical condition, disability, condition of health, marital status, pregnancy, economic condition, language, region, ideological conviction or similar other grounds; and
- the Right to Employment Act of 2018, which provides that every citizen shall have the right to employment (section 3) and that, except where special provisions apply by reason of the prevailing law for any particular class or community with respect to the provision of employment to the unemployed, no person shall be discriminated against on the grounds of origin, religion, colour, caste, ethnicity, sex, language, region, ideology or similar other grounds (section 6). The Act provides for a fine of 10,000 Nepalese rupees (NPR) in the case of discrimination made by the employer (sections 25 and 26).

Noting that the grounds of political opinion and national extraction set out in *Article 1(1)(a)* of the Convention are not expressly covered by the national legislation, which does not specifically refer to direct and indirect discrimination in employment and occupation. Further, the legislation appears in some important respects to grant protection against discrimination only to citizens. In view of the foregoing, the Committee draws the Government's attention to the fact 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 (see the 2012 General Survey on the fundamental Conventions, paragraphs 850–853). The Committee also notes that, in its 2018 concluding observations, the United Nations (UN) Committee on the Elimination of Discrimination against Women (CEDAW) expresses specific concern at the lack of explicit protection against direct and indirect discrimination against women (CEDAW/C/NPL/CO/6, 14 November 2018, paragraph 8(a)). ***The Committee urges the Government to take all the necessary steps to ensure that its national legislation includes an explicit prohibition of direct and indirect discrimination against all persons on at least all of the grounds enumerated in Article 1(1)(a) of the Convention concerning all stages of the employment process. It asks the Government to provide information on any progress made in that regard, while specifying how the protection of the Convention is ensured to all workers, including those in the informal economy and non-nationals, irrespective of their regular or irregular situation. In the meantime, the Committee asks the Government to provide information on the application in practice of section 180 of the Labour Act of 2017 section 6 of the Labour Regulations of 2018, section 18 of the National Civil Code of 2017 and section 6 of the Right to Employment Act of 2018, including on any relevant administrative or judicial decisions.***

*Discrimination based on sex. Sexual harassment.* The Committee notes with *interest* the adoption of the Sexual Harassment at the Workplace (Prevention) Act of 2015, which prohibits both quid pro quo and hostile work environment sexual harassment (section 4) and requires employers to disseminate information about and prevent sexual harassment, as well as to set up an internal complaint mechanism. The Act also provides for penalties of six months of imprisonment and/or a fine of NPR50,000 against any person who commits sexual harassment (section 12). The Committee further notes that section 132 of the new Labour Act provides for the termination of the employment of any person who has committed sexual harassment. The Committee however notes that in its 2018 concluding observations, the CEDAW expresses concern that: (i) rates of violence against women are increasing; (ii) girls suffer sexual harassment, corporal punishment and abuse in school, including by teachers; (iii) cases of sexual harassment are under-reported and judicial and law enforcement officers, in particular at the local level, prevent the registration of cases of sexual and gender-based violence; and (iv) the Sexual Harassment at the Workplace (Prevention) Act is insufficiently implemented. The CEDAW specifically recommends that the culture of silence surrounding sexual harassment should be broken; that a confidential and safe complaint mechanism

should be established; and that access to justice for victims of sexual harassment in the workplace should be facilitated (CEDAW/C/NPL/CO/6, 14 November 2018, paragraphs 10(d), 20(a), 32(c), 34(c) and 35(c)). Lastly, noting that criminal proceedings require a higher burden of proof, the Committee recalls that the establishment of easily accessible dispute resolution procedures (in addition to criminal proceedings) can make an effective contribution to combating discrimination (see 2012 General Survey, paragraphs 792 and 855). ***The Committee requests the Government to indicate whether any implementing measures have been adopted since the enactment of the Sexual Harassment at the Workplace (Prevention) Act to combat sexual harassment. The Committee also requests the Government to take steps to address the social stigma attached to this issue for workers, employers and their representative organizations, as well as law enforcement officials. The Committee further requests the Government to report on the number of cases of sexual harassment at work dealt with by internal complaint mechanisms set up at the enterprise level, labour inspectors, the courts or any other competent authority, the sanctions imposed and remedies granted, as well as updated statistical data on the extent of sexual harassment perpetrated against girls and women in education institutions and at the workplace.***

***Articles 2 and 3. Equality of opportunity and treatment irrespective of social origin.*** The Committee previously welcomed the adoption of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act of 2011, which prohibits caste-based discrimination and “untouchability” (sections 3 and 4). The Committee notes that Article 24(4) of the new Constitution provides that there shall be no racial discrimination in the workplace on the ground of “untouchability”. Noting the constitutional recognition of the National Dalit Commission (Articles 255 and 256 of the Constitution), the Committee notes the Government’s statement that no recommendation concerning the employment sector has been made so far by the Commission, but that information on the implementation of the Act of 2011 will be provided at a later stage. The Government adds that, from 2014 to 2016, 1,372 Dalit women and 1,553 Dalit men participated in training programmes conducted by the Vocational and Skill Development Training Centre of the Ministry of Labour and Employment. The Committee however notes that in their 2018 concluding observations, the UN Committee on the Elimination of Racial Discrimination (CERD) and the CEDAW express concern at: (i) the insufficient funding of the National Dalit Commission, which is only operational in Kathmandu; (ii) the insufficient implementation of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act of 2011; as well as (iii) reports that law enforcement officials are sometimes reluctant to act upon caste-based discrimination (CEDAW/C/NPL/CO/6, 14 November 2018, paragraphs 18(a) and 40(b), and CERD/C/NPL/CO/17–23, 29 May 2018, paragraphs 9 and 11). The CERD also expresses deep concern as to the way in which caste-based occupational specialization obstructs socio-economic mobility and assigns members of certain castes to degrading and/or exploitative occupations (CERD/C/NPL/CO/17–23, 29 May 2018, paragraph 31). ***Recalling that continuous measures are required to put an end to discrimination in employment and occupation due to real or perceived membership of a certain caste, the Committee urges the Government to take proactive measures to ensure the effective implementation of the Caste-Based Discrimination and Untouchability (Offence and Punishment) Act of 2011, including by raising awareness among the general public, as well as law enforcement officials, of the prohibition of caste-based discrimination in the national legislation, the remedies and procedures available. The Committee also requests the Government to provide information on any measures envisaged or implemented to this end. The Committee further asks the Government to provide information on the activities of the National Dalit Commission, as well as on the number, nature and outcome of any complaints of caste-based discrimination dealt with by labour inspectors, the courts or any other competent authority.***

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

## Nicaragua

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)***

***Article 1(b) of the Convention. Legislation.*** In its previous comments, the Committee requested the Government to harmonize its legislation, Act No. 648 of 2008 on equal rights and opportunities, in order to incorporate fully the principle of equal remuneration for men and women workers for work of equal value, as enshrined in the Convention. The Committee notes that, in its report, the Government provides detailed information on the legislation in force, particularly on Act No. 648 of 2008, but that it does not provide any information on the harmonization of the Act with the principle enshrined 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. The concept of “work of equal value” 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 (see 2012 General Survey on the fundamental Conventions, paragraph 673). ***Recalling the importance of ensuring that men and women have a clear legal basis for asserting their right to equal pay for work of equal value vis-à-vis their employers and the competent authorities, the Committee urges the Government to take action in order to harmonize Act No. 648 of 2008 on equal rights and opportunities, to incorporate fully the principle of equal remuneration for men and women workers for work of equal value, as enshrined in the Convention and to provide information on progress in this regard.***

## Nigeria

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1974)**

*Legislation.* The Committee previously noted that, for more than ten years, the Government has been indicating that the Labour Standards Bill of 2006, which would provide for equal remuneration for men and women for work of equal value, is yet to be adopted. It notes the Government's repeated statement, in its report, that a provision covering the principle of equal remuneration for men and women for work of equal value has been incorporated in the Bill (section 11.2). The Government adds that, in any case, the Constitution provides for equal remuneration for work of equal value. The Committee notes, however, that article 17(3)(e) of the Constitution provides for "equal pay for *equal* work without discrimination on account of sex, or any other ground". In this regard, the Committee wishes to recall that the wording of such provision unduly restricts the scope of comparison of jobs performed by men and women and does not reflect the concept of "work of equal value" as provided for under the Convention, which is fundamental to tackling occupational gender segregation in the labour market, 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 General Survey on fundamental Conventions, 2012, paragraphs 672–675). The Committee notes with *deep regret* that the Government does not provide information on any progress made in the adoption of the Labour Standards Bill. It notes that, in concluding observations, the United Nations (UN) Human Rights Committee (UNHRC) and the UN Committee on the Elimination of Discrimination against Women (CEDAW) respectively expressed concern about the delay in adopting the above-mentioned bill and recommended that the Government expedite the adoption of pending laws (CCPR/C/NGA/CO/2, 29 August 2019 and CEDAW/C/NGA/CO/7-8, 24 July 2017). ***The Committee therefore urges the Government to provide updated information on the current status of the adoption of the Labour Standards Bill. It trusts that real progress will be made soon in adopting legislation that fully reflects the principle of equal remuneration for men and women for work of equal value in its national legislation, allowing for the comparison not only of equal, the same or similar work but also of work of an entirely different nature.***

*Article 2. Gender wage gap.* The Committee notes the Government's statement that efforts are being made to obtain the statistical information pertinent to evaluate the progress made in the application of the principle of the Convention. In this regard, it recalls that appropriate data and statistics are crucial in determining the nature, extent and causes of unequal remuneration, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and to make any necessary adjustments (see General Survey on the fundamental Conventions, 2012, paragraph 891). However, the Committee observes from the 2019 Government's report under the national-level review of implementation of the Beijing Declaration, that the gender participation gap in labour force participation is still quite significant with an estimate of less than 25 per cent of women making up the country's formal labour force (NBS, 2018). In this report, the Government acknowledges that, despite women's contribution to the economy and to combating poverty through both remunerated and unremunerated work at home, in the community and in the workplace, several gender specific disparities exist as far as the country's economic indices are concerned, in particular as regard women's access to means of production and provides some concrete examples: (i) Nigerian labour markets are gendered, as a majority of those in formal employment are men. NBS 2018 data confirm that only 32,5 per cent of women were employed in the (non-agricultural) private sector; (ii) women run only 20 per cent of enterprises in the formal sector and 23 per cent of these enterprises are in the retail sector; women make up 37 per cent of the total work force in the garment industry, and they are very poorly represented in the wood, metals, chemicals, construction, and transport industries; (iii) limited opportunities for employment and a rather small medium-scale enterprise sector have meant that micro or informal enterprise has become a default strategy for many Nigerians; (iv) data show that men are twice as likely to secure finance compared to women. In 2007, for example, about 64 per cent disbursed loans went to male applicants. Some of the reasons behind this include stringent prequalification criteria and a disconnect between available opportunities and women in the rural areas; (v) women's access to land, a key productive asset is limited: according to the Government's report, although the Nigeria Land Administration Act is egalitarian on paper, further work is required to operationalize the Act as the predominant practice is patrilineal inheritance (from father to son); (vi) women are significantly under-represented in secure wage employment in both the private and public sectors; and those who have formal sector jobs are constrained by the reproductive roles they play. As a result, many women occupy low-level posts that offer them the flexibility they need to manage their households while working in the formal economy.

The Committee notes further that, according to the Global Gender Gap Report from the World Economic Forum, in 2018 the country gender wage gap was high, being estimated at 35 per cent. In that respect, the Committee observes that, in its concluding observations, the CEDAW was concerned about the lack of information on the activities of labour inspectors to investigate the alleged gender wage gap, especially in the private sector (CEDAW/C/NGA/CO/7-8, 24 July 2017, paragraph 35). ***In light of the absence of legislation that fully reflects the principle of the Convention and the persistence of a significant gender pay gap, the Committee urges the Government to strengthen its efforts to take proactive measures, including in collaboration with employers' and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the provisions of the Convention in practice, in particular among workers, employers, their respective organizations and law enforcement officials. It further asks the Government to provide information on the measures taken to address the underlying causes of this persistent gender pay gap, identified in its report under the national-level review of implementation of the Beijing Declaration, such as traditional practices and***

*gender stereotypes regarding women's professional aspirations, preferences and capabilities, and their role in the family, and to promote women's access to a wider range of jobs with career prospects and higher pay. Noting that the importance of micro-enterprises as the main source of income makes it a strategic area for the empowerment of women, the Committee asks the Government to indicate the concrete measures adopted to promote women's economic empowerment and entrepreneurship, as well as the results thereof. Finally, the Committee asks the Government to provide updated statistical information on the earnings of men and women, disaggregated by economic sector and occupation.*

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 2002)***

*Legislation.* The Committee previously noted that, for more than ten years, the Government has been indicating that the Labour Standards Bill of 2006, which includes provisions on equality of opportunity and treatment, is yet to be adopted. It notes the Government's repeated statement, in its report, that a provision covering the principle of equality of opportunity and treatment in employment and occupation, is incorporated in the Bill. The Committee notes with **deep regret** that the Government does not provide information on any progress made in the adoption of the Labour Standards Bill, nor on the adoption of the Gender and Equal Opportunities Bill of 2016, which would provide protection against discrimination based on sex, age and disability; promote gender equality; and provide for special temporary measures, including in employment and occupation. It notes that, in their concluding observations, the United Nations (UN) Human Rights Committee (HRC) and the UN Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about the delay in adopting the two above-mentioned bills and recommended that the Government expedite the adoption of pending laws and adopt comprehensive anti-discrimination legislation that: (i) includes a comprehensive list of prohibited grounds of discrimination, including race, colour, sex, religion, political opinion, and national or social origin; (ii) covers direct and indirect discrimination; and (iii) provides for effective remedies, including judicial remedies (CCPR/C/NGA/CO/2, 29 August 2019, paragraph 17, and CEDAW/C/NGA/CO/7-8, 24 July 2017, paragraphs 9, 10 and 35(b)). **The Committee therefore urges the Government to provide updated information on the current status of the adoption of the Labour Standards Bill and Gender and Equal Opportunities Bill. It trusts that real progress will be made soon in adopting legislation that explicitly prohibits direct and indirect discrimination based on at least all the grounds set out in Article 1(1)(a) of the Convention concerning all stages of the employment process, while also ensuring that the additional grounds already enumerated in its national legislation are preserved in any new legislation. In the meantime, the Committee again stresses the importance of enacting provisions to prevent and prohibit sexual harassment in the workplace, which is a serious manifestation of sex discrimination, and asks the Government to provide information on any progress made in this regard.**

*Articles 1 and 3. Discrimination based on sex with regard to employment in the police force.* For many years, the Committee has been drawing the Government's attention to the fact that sections 118 to 128 of the Police Regulations of 1968, which provide for special recruitment requirements and conditions of service applying to women, are discriminatory on the basis of sex and thus incompatible with the Convention. More particularly, the Committee underlined that the criteria and provisions relating to pregnancy and marital status contained in sections 118, 124 and 127 constitute direct discrimination, and that sections 121, 122 and 123 on duties that women police officers could perform were likely to go beyond what is permitted under *Article 1(2)* of the Convention. The Committee also noted that legal provisions establishing common height for admission to the police were likely to constitute indirect discrimination against women. While noting the Government's general indication that this issue will be conveyed to the Police Service Commission for review, the Committee recalls that women should have the right to pursue freely any job or profession and that exclusions or preferences in respect of a particular job in the context of *Article 1(2)* of the Convention, should be determined objectively without reliance on stereotypes and negative prejudices about men's and women's roles (see General Survey of 2012 on fundamental Conventions, paragraph 788). It further notes that in its concluding observations, the CEDAW remained concerned about: (i) article 42(3) of the Constitution, which validates any law that may impose discriminatory restrictions with respect to an appointment to the police force; as well as (ii) the above-mentioned discriminatory provisions of the Police Act and Regulations (CEDAW/C/NGA/CO/7-8, 24 July 2017, paragraph 11). **Recalling once again that each member State for which this Convention is in force, in accordance with Article 3(c), is under the obligation to repeal any statutory provisions which are contrary to equality of opportunity and treatment, the Committee urges the Government to bring its legislation into conformity with the Convention without delay, and to indicate any measures taken in this regard to effectively ensure equality of opportunity and treatment of women in the police force. It asks the Government, once again, to provide a copy of the Gender Policy for the Nigerian Police, as well as specific information on its implementation and impact, including any measures to address stereotypes and negative prejudices about the role of men and women in the labour market.**

*Articles 2 and 3. Equality of opportunity for men and women.* The Committee previously noted that the National Gender Policy of 2006 was being reviewed and that, while no further information had been provided on training activities by the National Directorate for Employment (NDE) and the Technical Vocational Education Training (TVET) programme for rural women and women with disabilities, the Government referred to the "Community Services, Women and Youth Employment" (CSWYE) project. This project was being implemented to provide temporary employment opportunities in cleaning and light construction work through community services to unemployed women, youth, and persons with

disabilities, while ensuring a level of guaranteed income for up to one year. The Committee notes with *regret* the lack of information provided by the Government on the measures taken to promote equal opportunities for men and women in employment and occupation. However, the Committee notes, from the 2019 Government's report under the national-level review of implementation of the Beijing Declaration, that the Government acknowledges that, although there have been major achievements when it comes to progress with gender equality and the empowerment of women, there are still several challenges, such as for example: gender stereotypes, social norms and cultural barriers; lack of enough up-to date gender disaggregated data; addressing the intersectional nature of gender inequality; inadequate funding to implement programmes and policies; insecurity, gender violence and conflict; non domestication of major treaties and poor implementation of some of the sector specific laws and policies (such as the National Gender Policy). In addition, the Committee notes that, in its concluding observations, the CEDAW was concerned that: (i) the CSWYE and "Growing Girls and Women in Nigeria" projects lack a legislative basis that would ensure their enforcement; (ii) there are no mechanisms in place to track the progress of the CSWYE project; (iii) there is no information on plans to expand that project to rural areas, where the majority of women live; (iv) women own less than 7.2 per cent of the total land mass and their land rights in rural areas are not guaranteed; and (v) rural women continue to face physical, economic and other barriers in gaining access, inter alia, to education and employment (CEDAW/C/NGA/CO/7-8, 24 July 2017, paragraphs 19 and 41). The Committee notes that, in the framework of the Universal Periodic Review (UPR), several UN bodies and organizations expressed concern about school dropout by many women and girls, in particular in the North-East region owing to the Boko Haram insurgency (A/HRC/WG.6/31/NGA/2, 27 August 2018, paragraphs 60–62). In this regard, the Committee notes, from the 2018 Statistical Report on Women and Men in Nigeria, published by the National Bureau of Statistics (NBS), that the enrolment rate of school-aged girls in primary education decreased from 48.6 per cent in 2014 to 47.5 per cent in 2016, and the completion rates for girls in primary, junior and senior secondary schools in 2016 were 64.8 per cent, 38.9 per cent and 28.7 per cent respectively. It notes that the literacy rate among girls and women aged between 15 and 24 years remained low at 59.3 per cent in 2016, compared to 70.9 per cent for men. While observing that the report of the NBS does not contain information on the situation of women in the private sector, the Committee notes that women represented only 44.9 per cent of the state civil service's employees in 2015 and were mostly concentrated in lower grades, their situation being similar in federal ministries, departments and agencies. Noting from the NBS statistical report that women are often disadvantaged in access to employment opportunities and in conditions of work as compared to men and that employment opportunities of many women are also limited as a result of their family responsibilities, the Committee notes with *concern*, from the 2017 Unemployment/Under Employment Report of the NBS, that the number of employed women decreased from 2017 to 2018 while their unemployment rate increased by 5.4 percentage points. The Committee notes that, in its concluding observations, the HRC expressed concern about discrimination against women in access to justice, education, employment and enjoyment of land and property rights persists both in law and in practice (CCPR/C/NGA/CO/2, 29 August 2019, paragraph 16). It also notes that, in its concluding observations, the CEDAW was concerned about the persistence of harmful practices and discriminatory stereotypes regarding the roles and responsibilities of women and men in the family and in society, which perpetuate women's subordination in the private and public spheres (CEDAW/C/NGA/CO/7-8, 24 July 2017, paragraph 21). The Committee notes that the Human Rights Council, in the context of the UPR, specifically recommended that the Government: (i) strengthen educational opportunities for girls; (ii) continue efforts to facilitate women's economic empowerment and access to economic opportunities, particularly in rural areas; (iii) prevent violence and discrimination against women; and (iv) intensify efforts to enable women to gain access to justice by increasing gender awareness among judges and other court personnel (A/HRC/40/7, 26 December 2018, paragraph 148). ***In light of the absence of legislation that fully reflects the principles of the Convention, the Committee urges the Government to strengthen its efforts to take proactive measures, including in collaboration with employers' and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the provisions of the Convention in practice, in particular among workers, employers, their respective organizations and law enforcement officials. It further urges the Government to provide information on the measures taken, including in the framework of the revision of the National Gender Policy of 2006, to improve equality of opportunity and treatment for men and women in employment and occupation, in particular in rural areas, by effectively enhancing women's economic empowerment and access to education and employment, including decision-making positions, as well as by improving the school attendance rate for women and girls while reducing their early dropout from school. The Committee asks the Government to provide statistical information on the participation of men and women in education, training, employment and occupation, disaggregated by occupational categories and positions, both in the public and private sectors, as well as in the informal economy.***

*Discrimination based on race, colour, religion, national extraction or social origin. Ethnic and religious minorities.* The Committee previously noted that article 42(1)(a) of the Constitution – which provides that a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason that he or she is such a person, be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the Government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject – only protects citizens and does not contain an explicit prohibition of discrimination in employment and occupation. Having noted that Nigeria is an ethnically and linguistically diverse society, the Committee has repeatedly requested the Government to provide information on the application of the Convention with respect to the different ethnic and religious groups in the country. It notes with *regret* that the Government once again provides no information on this point, nor regarding discrimination in employment and

occupation resulting from the practice of ascribing certain occupations and social status to a person on the basis of that person's descent. The Committee notes with **concern** that, in its concluding observations, the HRC was concerned about: (i) allegations of discrimination against religious minorities, including discrimination against Christians in the northern states in terms of access to education and employment; as well as (ii) reports of discrimination against certain ethnic minorities in various aspects of their lives, including access to education and employment due to the differential access of indigenous persons and settlers, and segregation from society of some groups such as the Osu (CCPR/C/NGA/CO/2, 29 August 2019, paragraphs 44 and 50). ***In light of the absence of national legislation explicitly prohibiting direct and indirect discrimination on all the grounds set out in Article 1(1)(a) of the Convention, concerning all stages of the employment process, the Committee urges the Government to provide information on any measures taken, in law and in practice, to address discrimination in employment and occupation faced by ethnic and religious minorities, including nomadic groups and Christians in the northern states. It asks the Government to provide information on any affirmative action and awareness-raising measures undertaken to promote equality of opportunity and treatment in employment and occupation for ethnic and religious minorities, as well as on any legislative developments relevant to the rights of minorities.***

**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 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.

## North Macedonia

### ***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.

**Legislative developments.** The Committee notes the adoption of the new Law on Equal Opportunities for Women and Men, 2012. In accordance with article 2, this Law aims to establish equal opportunities and equal treatment for men and women in various fields, including the economic, social and education fields and in the public and private sectors. Articles 7 and 8 provide for the adoption of temporary special measures to overcome an existing structural gender inequality, including through positive and promotional measures. ***The Committee requests the Government to provide information on the concrete measures taken for the general implementation of this Law and its impact on the achievement of gender equality in both the public and the private sectors. It also requests the Government to provide information on any special measures taken under articles 7 and 8 to achieve equality in employment and occupation and any special protective measures in favour of certain categories of persons.***

**Sexual harassment.** The Committee also notes that article 3(3) of the new Law expressly prohibits sexual harassment in the public and private sectors, and that sexual harassment is defined, in article 4(7), as being any type of unwanted behaviour of a sexual nature creating an intimidating or hostile atmosphere. ***The Committee requests the Government to confirm that the law covers both quid pro quo and hostile environment sexual harassment at work. It also requests the Government to provide information on the practical measures taken to prevent and address sexual harassment in employment and occupation. The Government is also requested to provide information on any instances of sexual harassment addressed by the competent authorities, including any relevant administrative or judicial decisions and the sanctions imposed.***

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.***

## Panama

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1958)***

**Articles 1(b) and 2 of the Convention. Work of equal value. Legislation.** In its previous comments, the Committee once again requested the Government to take the necessary steps to align its legislation with the principle of the Convention and, in particular, to amend section 10 of the Labour Code (which provides "for equal pay for work in the service of the same employer, performed in the same job, working day, conditions of efficiency and seniority") so that it fully reflects the

principle of equal remuneration for men and women for work of equal value, and to provide information on any developments in this regard. It also reminded the Government that the technical assistance of the Office was available. In this regard, the Government indicates in its report that article 67 of the National Constitution guarantees equal pay for work performed under identical conditions, which is also included in section 10 of the Labour Code, and states that section 145 of the Labour Code establishes an expeditious judicial procedure of redress in case of violation of the principle of equal minimum pay, or in case of unequal pay. The Government further notes that it requested assistance from the ILO in August 2017 in order to make progress with bringing its legislation into line with the principle of the Convention. ***The Committee trusts that the technical assistance requested in order to harmonize the legislation with the principle of the Convention will be provided without delay. The Committee requests the Government to provide information on any developments in this regard.***

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

## Papua New Guinea

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(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 2020, 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(1)(a) of the Convention. Prohibited grounds of discrimination. Legislation.*** Referring to its previous comments regarding legal protection against discrimination on the basis of the grounds set out in *Article 1(1)(a)* of the Convention, the Committee welcomes the Government's indication in its report that section 8 of the final draft of the Industrial Relations Bill prohibits direct and indirect discrimination on the grounds of race, colour, sex, religion, pregnancy, political opinion, ethnic origin, national extraction or social origin, against an employee or applicant for employment or in any employment policy or practice. The Government adds that further consultations were held between the National Tripartite Consultative Council (NTCC) and the State Solicitor's Office in order to make final amendments to the Bill which was anticipated to be enacted in 2015. The Committee notes that the Government does not provide information on progress made concerning the review of the Employment Act, 1978, including the revision of sections 97–100 which prohibit only sex-based discrimination against women. It notes that the Decent Work Country Programme for 2013–15, which has been extended until 2017, has set as a priority the completion of the Industrial Relations Bill, and revisions of the Employment Act through the delivery of a new Employment Relations Bill. ***While noting that none of these Bills have been enacted to date, the Committee trusts that the Industrial Relations Bill will be adopted in the near future, and requests the Government to provide information on progress made in this regard. It also requests the Government to provide information on progress made concerning the review of the Employment Act 1978, and in particular sections 97–100, in collaboration with workers' and employers' organizations, with a view to aligning the provisions on discrimination with the Industrial Relations Bill and to bring them into conformity with the Convention.***

***Discrimination on the ground of sex in the public service.*** For over 15 years, the Committee has been referring to the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 1995, which allows calls for candidates to specify that "only males or females will be appointed, promoted or transferred in particular proportions", and section 20.64 of General Order No. 20 as well as section 137 of the Teaching Services Act 1988, which provide that a female official or female teacher is only entitled to certain allowances for their husband and children if she is the breadwinner. A female officer or female teacher is considered to be the breadwinner if she is single or divorced, or if her spouse is medically infirm, a student or certified unemployed. The Committee notes with ***deep regret*** that despite the adoption of a new Public Services (Management) Act in 2014, which repealed the Act of 1995, section 36(2)(c)(iv) referred to above has been maintained. It however notes that the National Public Service Policy on Gender Equity and Social Inclusion (GESI) adopted in 2013, and its action plan, set as priority action the revision of employment conditions in order to ensure equal access and employment conditions for all individuals regardless of gender. ***Noting the discriminatory impact of section 36(2)(c)(iv) of the Public Services (Management) Act 2014, section 20.64 of General Order No. 20 and section 137 of the Teaching Services Act 1988, the Committee urges the Government to take expeditious steps to review and amend these laws in order to bring it in line with the requirements of the Convention. It also requests the Government to provide information on any measures taken as a result of the GESI policy and action plan and any progress made to ensure equality of opportunity and treatment between men and women in the public service.***

***Discrimination against certain ethnic groups.*** Referring to its previous comments concerning the allegations made by the International Trade Union Confederation (ITUC) on the increased violence against Asian workers and entrepreneurs, who were blamed for "taking away employment opportunities", the Committee notes that the Government does not provide any information in this regard. ***The Committee once again requests the Government to investigate the allegations of discrimination against Asian workers and entrepreneurs including incidents of violence and to provide information on the results of such investigations. It also requests the Government to provide information on concrete measures taken to ensure protection in the context of employment and occupation, against discrimination on the grounds of race, colour, or national extraction, as well as on any measures taken or envisaged to promote equality of opportunity and treatment of members of different ethnic groups in employment and occupation.***

***Article 2. National equality policy.*** The Committee notes that the Government still does not provide information on a national policy specifically addressing discrimination on all the grounds enumerated in the Convention. With regard to discrimination based on sex, the Committee notes that some sections of the National Public Service Policy on Gender Equity and Social Inclusion of 2013 and the National Policy for Women and Gender Equality for 2011–15 seem to address the issue of gender equality in employment and occupation. The Committee recalls that, even though the relative importance of the problems relating to each of the grounds may differ for each country, when reviewing the situation and deciding on the measures to be taken, it is essential that attention be given to all the grounds of discrimination set out in the Convention in implementing the national equality policy, which presupposes the adoption of a combination of legislative and administrative measures, collective agreements, public policies, affirmative action measures, dispute resolution and enforcement mechanisms, specialized bodies, practical programmes

and awareness raising (2012 General Survey on the fundamental Conventions, paragraphs 848–849). *The Committee again urges the Government to provide full particulars on the specific measures taken or envisaged, in collaboration with workers' and employers' organizations, to implement a national policy aimed at ensuring and promoting equality of opportunity and treatment in employment and occupation on all the grounds enumerated in 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.*

## Poland

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1961)

*Article 1(1)(a) of the Convention. Prohibited grounds of discrimination.* The Committee previously noted that section 11(3) of the Labour Code and section 3(1) of the Equal Treatment Act of 3 December 2010 (ETA) do not prohibit discrimination on the grounds of colour and social origin, as required by *Article 1(1)(a)* of the Convention. The Committee notes the Government's statement in its report that the grounds of discrimination set out in the Labour Code are non-exhaustive and are listed only as examples. Noting that, according to their last annual reports, no case or complaint of discrimination on the grounds of colour or social origin has been dealt with by the labour inspectorate or the Commissioner for Human Rights (RPO), the Committee recalls that, where legislative provisions are adopted to give effect to the Convention, they should include at least all the grounds of discrimination set out in *Article 1(1)(a)* of the Convention. In that regard, it takes note of the adoption of the Labour Code Amendment Act of 16 May 2019, which entered into force on 7 September 2019, and more particularly of the amendments introduced in new section 11(3) of the Labour Code, but regrets that, despite its recommendations, the Government did not take this opportunity to include the grounds of colour and social origin in the list of the prohibited grounds of discrimination. *Noting the Government's indication concerning the elaboration of a new draft Labour Code in May 2018, the Committee hopes that the Government will take this opportunity to explicitly prohibit discrimination in employment and occupation based on at least all the grounds set out in Article 1(1)(a) of the Convention, while also ensuring that the additional grounds already enumerated in the Labour Code and the Equal Treatment Act currently in force are maintained in any new legislation. The Committee asks the Government to provide information on any progress made in this regard. In the meantime, it asks the Government to provide information on the application in practice of section 11(3) of the Labour Code and section 3(1) of the Equal Treatment Act, including on any relevant judicial decisions concerning discrimination on the grounds of colour and social origin.*

*Discrimination based on sex. Sexual harassment.* The Committee previously noted the difficulties faced by the labour inspectorate in examining sexual harassment complaints due to a lack of material evidence and the unwillingness of work colleagues to act as witnesses. While noting that the Government has not provided information on any measures taken or envisaged to improve the handling of sexual harassment complaints by labour inspectors, the Committee notes that 55 complaints of sexual harassment were dealt with by the labour inspectorate between 2014 and 2016 and observes that the figures have been increasing from 15 complaints in 2014 to 21 complaints in 2016. It further notes, from the statistical data provided by the Government, that 21 cases of sexual harassment were lodged with the courts from 2014–16. The Committee however notes that, in its 2017 annual report, the RPO highlights the lack of adequate tools for responding to sexual harassment and that this contributes to victims' unwillingness to report abuse. A study carried out by the RPO also shows that many female university students experience some form of sexual harassment during their studies, often by university employees. The Committee observes in this regard that, in December 2018, the United Nations Human Rights Council Independent Expert Group on the issue of discrimination against women in law and in practice expressed concern that the RPO, which has been very active in promoting and protecting women's rights, faces serious challenges of inadequate resources, as well as insufficient cooperation with some governmental bodies. The Committee further notes the amendments introduced to section 94<sup>3</sup>(4) of the Labour Code, as a result of the Amendment Act of 16 May 2019, which now provides that an employee who has suffered from "bullying", or has terminated an employment contract as a result of "bullying", has the right to claim compensation from the employer in an amount not lower than the minimum wage, while previously the right to claim compensation was granted only to an employee who, as a result of "bullying", terminated his or her employment contract. *The Committee asks the Government to: (i) explain what conduct is addressed under the term "bullying"; (ii) provide information on the application in practice, of section 94<sup>3</sup>(4) of the Labour Code, as amended, and more particularly on any measures taken to prevent and address all forms of sexual harassment (both quid pro quo and hostile work environment) in education institutions and at workplaces; and (iii) increase public awareness of the issue of sexual harassment and "bullying", as well as the legislative amendments introduced to the Labour Code, and procedures and mechanisms available for victims to seek redress, including by improving the handling of sexual harassment complaints by the labour inspectorate. It also asks the Government to continue providing information on the number of complaints concerning cases of sexual harassment and "bullying" in educational institutions and at workplaces dealt with by labour inspectors, the courts or any other competent authorities, specifying the penalties imposed and compensation awarded.*

*Articles 2 and 3. Equality of opportunity and treatment of men and women.* The Committee previously noted the measures taken and envisaged under the National Programme on Activities for Equal Treatment 2013–16 (KPDRT) to

promote equal opportunities for men and women. It notes the Government's indication that, in the framework of the KPDRT, a set of recommendations to enhance women careers in the science, technology, engineering and mathematics (STEM) area has been developed and several additional measures have been implemented to promote women's representation in decision-making positions, in particular on the supervisory boards of state-owned companies and in large companies, such as the development of a guide for human resources departments in order to improve equality of opportunity for men and women at the workplace level. The Government adds that a similar project was implemented from 2016 to 2019 targeting 400 medium-sized companies, including individual business advice, training for employers and workers on equal treatment at work and relevant regulations, sharing of good practice and provision of free tools. The Committee also notes the measures developed in the framework of the KPDRT to facilitate the reconciliation of work and family responsibilities, such as the awareness-raising programme "Family and Work: It Pays!" (2016–17). It notes in that regard the amendments introduced to the Labour Code by the Act of 24 July 2015 allowing working parents to fully share part of maternity and parental leave (sections 180 and 186 of the Labour Code). The Committee however notes, that a team to evaluate the implementation of the KPDRT was established in April 2015 but that, as highlighted by the UN Human Rights Council Independent Expert Group on the issue of discrimination against women in law and in practice, the evaluation report had still not been published in December 2018. It further notes that, according to Eurostat, the employment rate of women increased slightly from 58.5 per cent in 2016 to 60.3 per cent in 2018, but remained substantially lower than the employment rate of men (74.3 per cent in 2018). The Committee observes that the gap between the employment rates of men and women has widened from 10.3 percentage points in 2016 to 14 percentage points in 2018. The Committee notes that, in their 2016 concluding observations, the UN Human Rights Committee and the UN Committee on Economic, Social and Cultural Rights (CESCR) both expressed concern at: (i) the prevalence of gender biases and stereotypes; (ii) the concentration of women in lower-paid sectors; and (iii) the under-representation of women in decision-making positions in the public and private sectors, and that they recommended that the Government combat gender stereotypes and segregation in the labour market (CCPR/C/POL/CO/7, 23 November 2016, paragraph 21, and E/C.12/POL/CO/6, 26 October 2016, paragraphs 14 and 15). It also notes that in its 2017 annual report, the RPO highlighted the need to enhance women's education in the fields of technical sciences and engineering, as well as new technologies, and requested the Government to take this issue into consideration in the framework of the reform of vocational training and the counselling system in schools. The Committee notes from the data provided by the Government that the labour inspectorate dealt with 48 complaints alleging discrimination on the ground of sex when establishing or terminating the employment relationship and 46 complaints alleging discrimination on the ground of sex when setting remuneration for work or other conditions of employment, but observes that no information has been provided on the outcome of these complaints. ***The Committee asks the Government to provide information on the measures taken to address effectively both horizontal and vertical segregation between men and women in the labour market, as well as gender stereotypes, including by improving the economic activity rate of women and enhancing their access to decision-making positions and their participation in non-traditional fields of study and occupations. Noting that the National Programme on Activities for Equal Treatment ended in 2016, it asks the Government to provide information on the development and implementation of any new national programme or action plan on equal treatment or gender equality, as well as statistical information on the distribution of men and women in employment, disaggregated by economic sector and occupation.***

*Equality of opportunity and treatment irrespective of race, colour and national extraction. Roma.* The Committee previously noted that, despite several measures aimed at improving access to education and increasing opportunities in the labour market, the Roma remained the most marginalized group in the labour market. The Committee notes with ***interest*** the adoption of the Programme for the Integration of the Roma Community for 2014–20, which explicitly recognizes education and employment promotion as priority areas. It notes the Government's statement that 93 per cent of Roma children met the compulsory schooling obligation (compared to 84 per cent in 2013) and that several educational programmes for Roma parents and children were implemented in community and integration centres. The Government adds that several measures were undertaken to enhance the participation of Roma in the labour market and that, as a result, in 2016, 263 members of the Roma community were employed and 105 persons benefited from courses, internships and work placements to enhance their professional qualifications. The Committee notes the detailed statistical information provided by the Government on the situation of national and ethnic minorities in the labour market in 2015. While welcoming the measures taken, it notes with ***concern*** from the Government's report that the unemployment rate of the Roma is still three times higher than the average unemployment rate of other minorities (15.5 per cent and 5.4 per cent, respectively), while the employment rate of Roma was only 13.4 per cent (compared with 46.5 per cent on average for all other minorities). The Committee further notes that, in its 2016 concluding observations, the CESCR expressed concern at persistent societal discrimination against the Roma, as well as the fact that, despite the decrease in their unemployment rate, the Roma continue to be disproportionately affected by unemployment. The CESCR also expressed concern at the low attendance rates of Roma children in primary school, their drop-out rates from high school, their over-representation in "special" schools and their under-representation in secondary and post-secondary education (E/C.12/POL/CO/6, 26 October 2016, paragraphs 12, 16, 17 and 55). The Committee also notes that, in the context of the Universal Periodic Review (UPR), the Committee of Ministers of the Council of Europe highlighted the persistent discrimination and difficulties faced by the Roma in different sectors, in particular, in employment and education, and indicated that the unemployment figures demonstrated that the various initiatives and schemes had not yielded tangible results and that a significant proportion of the Roma remained excluded from the labour market (A/HRC/WG.6/27/POL/3, 21 February 2017, paragraphs 74 and 75). ***The Committee asks***

*the Government to continue adopting measures to prevent and address stereotypes and discrimination based on race, colour or national extraction, and effectively ensure equality of opportunity and treatment of the Roma in employment and occupation, including by improving their employment rate and enhancing their access to a wide range of occupations in the labour market, as well as their participation in education and vocational training. It asks the Government to provide information on any measures adopted to that end, particularly in the framework of the Programme for the Integration of the Roma Community for 2014–20, as well as the results achieved, by providing a copy of any reports evaluating their impact. The Committee also asks the Government to continue providing information on the participation of the Roma and persons belonging to other ethnic minorities in education and the labour market, disaggregated by sex.*

*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 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 directly addressed to the Government.

## Rwanda

### ***Equal Remuneration Convention, 1951 (No. 100) (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 the observations of the Congress of Labour and Brotherhood of Rwanda (COTRAF-RWANDA) received on 24 June 2018. *The Committee requests the Government to provide its comments in this respect.*

*Articles 1(b) and 2 of the Convention. Equal remuneration for work of equal value. Legislation.* The Committee recalls that the definition of the expression "work of equal value" which appears in section 1.9 of Law regulating Labour No. 13/2009 of 27 May 2009 refers only to "similar work" and is therefore too narrow to fully implement the principle of the Convention. It also recalls that this law does not contain any substantial provisions prescribing equal remuneration for men and women for work of equal value and the Constitution only refers to "the right to equal wage for equal work". The Committee notes that the Government continues to repeat that, in practice, there is no discrimination between men and women with regard to remuneration, and that full legislative expression will be given to the principle of equal remuneration for men and women for work of equal value in the ongoing revision process of Law No. 13/2009. The Government also indicates that the revision will also address the linguistic differences between the Kinyarwanda and English versions of section 12. The Committee once again refers to paragraphs 672–679 of its General Survey of 2012 on the fundamental Conventions explaining the meaning of the concept of "work of equal value" which not only covers "equal", the "same" or "similar" work but also addresses situations where men and women perform different work that is nevertheless of equal value. *Noting that no progress has been made in this respect for a number of years, the Committee urges the Government to take the necessary steps without delay to amend Law No. 13/2009 of 27 May 2009 regulating Labour, including sections 1.9 and 12, so as to give full legislative effect to the principle of 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.

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

## Saint Kitts and Nevis

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 2000)***

*Article 1 of the Convention. Work of equal value. Legislative developments.* In its previous comment, the Committee requested the Government to give full legislative expression to the principle of the Convention and to take the necessary measures to amend the Equal Pay Act 2012 so that it would clearly set out the principle of equal remuneration between men and women for work of equal value. Noting the Government's statement that the draft Labour Code had been tabled before the National Tripartite Committee, the Committee indicated that it trusted that all efforts would be made to include provisions explicitly guaranteeing equal remuneration for men and women for work of equal value. The Committee notes with *regret* the Government's indication that it was unable to enact the draft Labour Code. It also notes that a new draft has been prepared and was expected to be presented to, after review by the National Tripartite Committee and the

holding of national consultations. It also notes that it is expected that new legislation would be enacted at a later stage to cover, inter alia, issues of equal opportunity and sexual harassment. The Committee refers to its previous observation on the issue and emphasizes, once again, the fundamental importance of the full implementation of the principle of equal remuneration for men and women for work of equal value, a concept which is wider than just “equal pay for equal work” and the cornerstone of the Convention. ***In view of the above, the Committee asks the Government to provide information on the obstacles encountered in the adoption of the draft Labour Code and on any developments in that regard. The Committee reiterates 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 directly addressed to the Government.

## Saint Lucia

### ***Equal Remuneration Convention, 1951 (No. 100) (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 2020, 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. Definition of remuneration.*** The Committee recalls that the Equality of Opportunity and Treatment in Employment and Occupation Act, 2000, contains no definition of the term “remuneration”. The Committee notes the adoption of the Labour Code (Amendment) Act No. 6 of 2011, which amends section 95 of the Labour Code of 2006 to include the definition of “total remuneration” as “all basic wages which the employee is paid or is entitled to be paid by his or her employer in respect of labour performed or services rendered by him or her for his or her employer during that period of employment”. The Committee notes that section 2 of the Labour Code, continues to exclude overtime payments, commissions, service charges, lodging, holiday pay and other allowances from the definition of wages. The Committee recalls that the Convention sets out a very broad definition of “remuneration” in ***Article 1(a)*** 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 worker’s employment” (see 2012 General Survey on the fundamental Conventions, paragraph 686). ***The Committee asks the Government to take the necessary measures to further amend section 95 of the Labour Code in order to ensure that at least for the purposes of the application of the principle of the Convention the concept of remuneration covers not only the basic wages, but also any additional benefit or allowance arising out of the worker’s employment.***

***Different wages and benefits for women and men.*** The Committee notes with regret that despite the Government’s previous announcement in this respect, the Labour Code (Amendment) Act No. 6 of 2011 does not repeal the existing laws and regulations establishing differential wage rates for men and women, nor does it revoke the Contract of Service Act which provides for different ages for men and women with respect to entitlement to severance pay. ***The Committee urges the Government to take measures without delay to ensure that all laws and regulations are repealed which contain differential wages for men and women, as well as the Contract of Service Act, which provides for different ages for men and women with respect to entitlement to severance pay. The Committee requests the Government to provide information on any development 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.***

## Saint Vincent and the Grenadines

### ***Equal Remuneration Convention, 1951 (No. 100) (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 2020, 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. Work of equal value.*** The Committee notes with regret the Government’s indication that there has been no progress regarding the matter of amending section 3(1) of the Equal Pay Act of 1994, which provides for “equal pay for equal work” and is therefore not in conformity with the principle of equal remuneration for men and women for work of equal value. ***The Committee requests the Government once again to take steps to amend section 3(1) of the Equal Pay Act without further delay in order to ensure that the legislation provides for equal remuneration for men and women for work of equal value, as specified in the Convention; and to provide information on any progress achieved 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.***

## Sao Tome and Principe

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1982)***

***Article 1 of the Convention. Equal remuneration for men and women for work of equal value. Legislative developments.*** For many years, the Committee has been drawing the Government’s attention to the fact that article 43(a) of the Constitution does not fully reflect the principle of the Convention as it only guarantees “equal wages for equal work”.

Referring to its previous comments where it noted that a draft General Labour Act had been prepared and submitted to the Office for comments, the Committee notes with *interest* the adoption of the Labour Code through Act No. 6/2019 of 16 November 2018, and notes that the provisions on equality and non-discrimination apply to public sector employees (section 3). It notes, in particular, that section 22(1) of the Labour Code provides for equal working conditions for men and women, in particular with regard to pay, and that section 234(5) provides that “all workers of the same company under identical contractual conditions are entitled to receive equal pay for work of equal value, any wage discrimination being prohibited”. The Committee wishes to point out that while the new provisions guarantee “equal pay for work of equal value”, the formulation used under section 234(5) of the Labour Code which requires “identical contractual conditions” is narrower than the principle of the Convention. It recalls that while factors such as complexity, responsibility, difficulty and working conditions are clearly relevant in determining the value of jobs, when examining two jobs, the value does not have to be the same with respect to each of the factors considered. Determining whether two different jobs are of equal value consists of determining the overall value of the jobs when all the factors are taken into account. The principle of the Convention requires 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 (see 2012 General Survey on fundamental Conventions, paragraphs 676-679). Furthermore, the Committee recalls that the application of the principle of equal remuneration for men and women for work of equal value should not be limited to comparisons between men and women in the same company, as it allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers (see General Survey of 2012, paragraphs 697 and 698). ***Regretting that the adoption of the Labour Code has not been taken as an opportunity to give full legislative expression to the principle of the Convention, the Committee asks the Government to consider amending section 234(5) of the Labour Code to ensure that when determining whether two jobs are of equal value: (i) the overall value of the job is considered without limiting the comparison to «identical contractual conditions», and the definition allows for the jobs of an entirely different nature to be compared free from gender bias; and (ii) the scope of comparison goes beyond the same company. The Committee also asks the Government to provide information on the practical application of article 43(a) of the Constitution and 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 authorities, specifying the penalties imposed and the compensation awarded. It asks the Government to provide information on any awareness-raising activities undertaken on the new legislative provisions and the principle of the Convention, including in collaboration with employers’ and workers’ organizations.***

*Articles 2 and 3. Assessing and addressing the gender wage gap.* The Committee has repeatedly emphasized the importance of gathering and analysing statistics on salary levels, disaggregated by sex, in order to be in a position to assess the application of the Convention by adequately evaluating the nature, extent and causes of the gender wage gap. The Committee once again notes with *regret* the absence of information provided by the Government in this regard. It notes that, according to the last available statistical information, women are more often affected by poverty than men (71.3 per cent and 63.4 per cent, respectively, in 2010). Furthermore, in 2012, the 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-qualifications jobs such as unskilled labour force (71 per cent), domestic workers (94 per cent) and services or trade (58.9 per cent of women). It further notes that women are mostly working in the informal economy, which affects 75.7 per cent of the economically active population, characterized by low wages and the lack of social protection. The Committee notes that the Decent Work Country Programme (DWCP) for 2018–21, adopted in July 2018, sets as a specific objective the promotion of productive employment for all, in particular for young people and women, including by raising awareness and encouraging transition from informal to formal economy, enhancing women’s entrepreneurship and access to vocational training, as well as strengthening the National Statistics Institute (INE). Noting that a National Statistical Development Strategy (ENDE) for 2018–21, adopted in February 2018, is currently implemented, the Committee recalls that appropriate data and statistics are crucial in determining the nature, extent and causes of discrimination and unequal remuneration, to set priorities and design appropriate measures, to monitor and evaluate the impact of such measures, and make any necessary adjustments (see General Survey of 2012, paragraph 891). ***Consequently, the Committee asks the Government to provide information on any measures undertaken to assess and address the gender wage gap, both in the formal and informal economy, in the framework of the DWCP or otherwise. The Committee trusts that the Government will be soon in a position to provide relevant information that would permit an assessment of the remuneration levels of men and women and wage differentials. It again asks the Government to provide updated information on the distribution of women and men in the various economic sectors and occupations, and their corresponding earnings, both in the public and private sectors.***

*Article 4. Cooperation with workers’ and employers’ organizations.* In response to the Committee’s long-standing indication that workers’ and employers’ organizations play an important role with respect to giving effect to the provisions of the Convention, the Government reiterates, in its report, that social partners play an important role in the effective implementation of international standards and national legislation. The Government adds that a revision of Act No.1/99 on the National Council for Social Dialogue (CNCS) is planned. The Committee notes that the DWCP for 2018–21 sets as a specific objective the strengthening of the CNCS and other institutions of social dialogue, as well as capacity-building of the tripartite constituents to promote, inter alia, gender equality and non-discrimination. ***The Committee asks the Government to provide information on any progress made in the revision of Act No. 1/99 on the CNCS, as well as on any***

*capacity-building activities of employers' and workers' organizations undertaken, in the framework of the DWCP or otherwise, to promote gender equality and non-discrimination. In light of the absence of legislation giving full expression to the principle of the Convention, the Committee again asks the Government to seek the cooperation of employers' and workers' organizations with regard to the amendment of the legislative framework, as indicated above, as well as with regard to practical measures to ensure equal remuneration for men and women for work of equal value. It asks 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.

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1982)***

*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.

## Saudi Arabia

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1978)

*Article 1(1) of the Convention. Prohibited grounds of discrimination. Legislative developments.* The Committee notes with *interest* that the amendment of Article 3 of the Labour Law by the Decision of the Council of Minister of 31 July 2019 extended the list of prohibited grounds of discrimination (i.e. “sex, disability and age”) to include “any other form of discrimination” in recruitment, including job advertisement, and in the course of employment. *Welcoming this development, the Committee asks the Government to take the necessary measures to raise awareness among workers, employers, workers' and employers' organizations and enforcement officials of the new anti-discrimination provisions in the Labour Law. Recalling 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 invites the Government to consider the possibility of including in Article 3 of the Labour Law, which refers to “any other form of discrimination”, an explicit reference to all the grounds other than sex set out in the Convention (i.e. race, colour, religion, national extraction, political opinion and social origin) to avoid any possible legal discrepancies in future legal interpretations. The Government is also asked to provide information on the number and nature of cases detected or cases dealt with by labour inspectors on the basis of Article 3 of the Labour Law. In addition, observing that the prohibition of discrimination in Article 3 seems to apply only to “citizens”, and recalling that the Convention applies to all workers (nationals and non-nationals), the Committee asks the Government to clarify whether this is the case and, if so, to extend the non-discrimination provision of Article 3 to non-citizens in order to cover migrant workers.*

*Article 1(1)(a). Discrimination based on sex. Sexual harassment.* The Committee recalls that, in its previous comment, it requested the Government to provide to information on: (i) any follow-up to the recommendations submitted by the Tripartite Social Dialogue Forum with regard to addressing the issue of sexual harassment and on the regulations being prepared with the Advisory Council for Women's Work; and (ii) any developments regarding the adoption of the draft regulation penalizing crimes against men and women employees and its content. The Committee welcomes the approval, by the Council of Ministers Decision No. 488 of 29 May 2018, of the Anti-Harassment Act, which is aimed at preventing and combating sexual harassment against both men and women, punishing perpetrators and protecting victims. The Act criminalizes sexual harassment, which is defined as “any utterance, act or gesture with sexual connotations by one person to any other person that would harm his or her body, honour or modesty, by any means, including through the use of modern technology”. This applies to workplaces in both the private and public sectors and requires employers in both sectors to take the necessary measures to prevent and combat harassment, such as by the establishment of internal complaint mechanisms and procedures to ascertain the veracity and seriousness of the complaints in such a manner as to maintain confidentiality. The Committee welcomes the entry into force on 20 October 2019 of the Order implementing the Anti-Harassment Act in private enterprises covered by the Labour Law, which was adopted pursuant to Article 5 of the Act. *While welcoming this development, the Committee asks the Government to take steps to ensure that the competent authorities and the private sector put in place the necessary measures to prevent and combat sexual harassment in the working environment, pursuant to Article 5 of the Anti-Harassment Act, and its implementing Order, and raise awareness among workers, employers and their organizations as well as public administration employees and enforcement officers on the provisions of this new Act and its implementing Order. The Committee asks the Government to take the necessary steps to ensure that the definition of sexual harassment in the Act covers both quid pro quo and hostile work environment harassment and that victims have access to appropriate remedies. The Committee asks the Government to confirm that the Act applies to all categories of workers and to all sectors of the economy. It also asks the Government to provide detailed information on the implementation in practice by employers in both the private and public sectors of the provisions of the Act with respect to employment and occupation, in particular regarding the reporting of sexual harassment and the burden of proof. The Committee asks the Government to provide information on any cases of sexual harassment detected by or reported to labour inspectors under the new Act and their outcome. Noting that the Government refers in its report to a Guide on Workplace Ethics, the Committee asks the Government to provide a copy of the guide.*

*Discrimination against migrant workers.* The Committee notes that, according to “Labour Market 2018 Third Quarter Statistics” published by the General Authority for Statistics, non-Saudi workers represent 75.5 per cent of the total number of employed persons. The Committee notes that the Government reiterates in its report that it has already taken the decision to abolish the sponsorship system and that certain terms have been changed for this purpose (for example the term

“transfer of sponsorship” has been replaced by “transfer of services”). It further notes that the Government provides information regarding the specific circumstances in which migrant workers can change their place of work and can work for a new employer under the Labour Law and Ministerial Decision No. 1982 of 6 April 2016. In this regard, the Committee refers the Government to its observation under the Forced Labour Convention, 1930 (No. 29), regarding the adoption of Ministerial Decision No. 70273 of 20 December 2018 and Ministerial Decision No. 605 of 12 February 2017 allowing migrant workers, including migrant domestic workers, to change employer, provided notice is given. It notes however that these workers are obliged to obtain permission from the employer or sponsor to leave the country. The Committee also notes that the Government adds that booklets are distributed to “labour-exporting” countries to workers to make them aware of their rights, an instructional video is shown on flights from labour-exporting countries and new workers are provided with SIM cards at no cost on arrival at the airport. The Government refers once again to the website (Labour Education) dedicated to explaining the rights and obligations of workers and employers. The site offers a number of services, including a “labour advice” service. The Government states that employment queries are dealt with immediately and complainants directed to the proper body responsible for dealing with their problems. The Government further indicates that it accords particular importance to the amicable settlement of disputes. The Committee notes that, in its concluding observations, the United Nations Committee for the Elimination of Racial Discrimination (CERD) recommends that Saudi Arabia ensure that all existing provisions adopted to protect migrant workers from abuse and exploitation are enforced effectively and that inspections are conducted by qualified officials in an effective manner to identify and end abusive labour practices. The CERD also recommends that the Government ensure that migrant workers have full access to complaint mechanisms and appropriate remedies. It expresses concern at reports that persons of Asian and African descent face discrimination in access to housing, education, healthcare and employment, as well as societal racism, and that women from minority groups face multiple forms of discrimination on the basis of both ethnic origin and gender (CERD/C/SAU/CO/4–9, 8 June 2018, paragraphs 18, 25 and 27). The Committee wishes to point out that, under the Convention, all migrant workers, including those in irregular situations, must be protected from discrimination in employment on the basis of the grounds set out in *Article 1(1)(a)* of the Convention (see the 2012 General Survey on the fundamental Conventions, paragraph 778). ***The Committee urges the Government to continue taking steps to ensure that all migrant workers, including women migrant workers, enjoy effective protection against discrimination on the grounds set out in the Convention (race, colour, sex, religion, political opinion, social origin and national extraction), including effective access to dispute settlement mechanisms and the right to change employer in the case of abuse. The Committee also asks the Government to continue taking active measures to increase the effective enforcement of existing legislation and to carry out awareness-raising activities concerning the respective rights and duties of migrant workers and employers. The Committee asks the Government to continue providing information, disaggregated by sex, race and national extraction, on the number of complaints lodged by migrant workers, and on the number of complaints or cases that have been brought before the courts and the remedies granted to victims.***

*Article 2. National equality policy.* The Committee recalls that, in its previous comments, it urged the Government to take steps to develop and implement a national equality policy. It added that the policy should include specific legislative measures to define and prohibit direct and indirect discrimination, covering all workers and all aspects of employment on all the grounds enumerated by the Convention, and ensuring effective means of redress, noting that the existing Labour Law (Royal Decree No. M/51) did not include such provisions. The Committee notes the Government’s statement in its report that it is continuing to make significant progress towards the adoption of a national policy promoting equality of opportunity and treatment in employment and occupation in order to eliminate discrimination and that a working group has been set up for that purpose. The Government also indicates that, further to its request, the ILO has provided support for the drafting of the equality policy, including comments on the relevant legislation and examples of good practice. A number of meetings have been held since 2017, including with the ILO, to identify and collect documents and information on discrimination issues. In this context, the Committee notes with *interest* the signature in June 2018 of an Agreement between the Government and the ILO “to support the Ministry of Labour and Social Development (MOLSD) in analysis, policy and capacity development”. The project has three components, one of which is dedicated to “boosting women’s employment towards a more inclusive labour market” and provides for the conduct of a technical study on the situation of women, along with vulnerable groups identified by the MOLSD. It also provides for the review of the national legal framework related to equality in employment and occupation, taking into consideration the grounds set out in the Convention, with a view to identifying the strengths and gaps in the existing legislation. Furthermore, the project aims to develop a national policy on equality through a tripartite-plus process and to develop an implementation plan with recommendations to amend, as necessary, the legal and policy framework. A National Steering Committee is to be established for that purpose. The Committee notes that the national equality policy is currently being drafted. ***Taking into account these significant developments, the Committee expresses the firm hope that the Government will soon be in a position to finalize and implement, in consultation with the relevant stakeholders, the national equality policy, and that it will cover all categories of workers in all sectors of the economy with a view to eliminating any form of discrimination based on at least all of the grounds set out in the Convention (sex, gender, race, colour, religion, political opinion, social origin and national extraction) and any other grounds it considers appropriate. In the context of this national policy, the Committee urges the Government to pursue and step up its efforts to review and amend the relevant labour legislation with a view to including specific provisions defining and prohibiting direct and indirect discrimination in all aspects of employment***

*and occupation, including recruitment and dismissal, in accordance with the Convention, and providing for effective sanctions and means of redress.*

*Promoting women's employment.* The Committee notes the Government's indication in its report that the goals of Saudi Vision 2030 include "increasing the participation of women in the labour market from 22 per cent to 28 per cent in 2020 and 30 per cent by 2030". As part of this strategy, the MOLSD has developed a number of programmes and initiatives to promote and increase job opportunities for Saudi women in various sectors, such as the communications sector. In this regard, the Committee welcomes the detailed information provided by the Government on the training programmes carried out to train men and women in a number of occupations required by the labour market, including the ILEAD Programme for women (access to leadership positions), and the results achieved with respect to women. The Committee also welcomes the adoption of the Royal Decree of 26 September 2017, which allows the issuance of driving licences to women, thereby removing a genuine obstacle to their employment. Referring to the above-mentioned cooperation agreement with the ILO, the Committee notes that this agreement aims to promote women's employment in a more inclusive labour market. The Committee also notes that the Unified Regulation of the Women's Work Environment Initiative, adopted in January 2019, was repealed and replaced by a Ministerial Order of August 2019 on women's employment.

In order to promote gender equality in employment and occupation, the Committee emphasizes the need to adopt measures and put in place facilities to enable workers with family responsibilities, in particular women, who continue to bear the unequal burden of family responsibilities, to reconcile work and family responsibilities. In this respect, the Committee notes the Government's indication that the Ministry of Education is implementing a policy on the establishment of childcare facilities. It notes in particular that an initiative to develop the number and quality of childcare facilities and services across the whole country, as part of Saudi Vision 2030, is seeking to open and operate 1,500 crèches and nursery schools. In 2016, there were 922 crèches for children aged one month to 3 years. In this regard, the Committee notes that, in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expresses concern at the insufficient measures adopted to promote the concept of shared family responsibilities and to combat the difficulties that women face in reconciling work and family responsibilities. It also notes the low participation rates of women, compared with those of men in the labour market, especially in the private sector; the significant discrepancy between women's and men's rates of unemployment; and the persistent horizontal and vertical occupational segregation and the concentration of women in low-paid jobs. It further notes the lack of enforcement of the 2012 Ministerial Decree providing that women no longer need the authorization of a guardian to work, as many employers still require the authorization of a male guardian to employ a woman (CEDAW/C/SAU/CO/3-4, 14 March 2018, paragraph 45). *Welcoming the initiatives and measures taken by the Government to increase training and job opportunities for women to enter the labour market, the Committee asks the Government to continue taking concrete steps to develop such opportunities in a wider range of occupations, including non-stereotypical jobs and decision-making positions, and to continue taking steps, such as the development of childcare facilities, to assist women to reconcile work and family responsibilities. Please provide information on the results achieved. Noting that, in addition to the specific measures to promote training and employment for women, the implementation of the Saudization Policy will provide further opportunities for Saudi women to access employment, the Committee asks the Government to specify whether all sectors targeted by this policy are open to women and to envisage analysing the impact of such a policy on women's employment. It also ask the Government to provide information on the steps taken to ensure that the 2012 Ministerial Decree providing that women no longer need the authorization of a guardian to work is enforced and that women are free to take up employment without the authorization of a male guardian. Please provide information on any cases brought in relation to the failure to comply with the Order and their outcome. The Committee asks the Government to provide detailed information on the rights of women and any remaining restrictions with respect to their employment, including on the effect given in practice to the new Ministerial Order.*

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

## Singapore

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)**

*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.

## Slovakia

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1993)***

*Articles 1 and 2 of the Convention. Legislation. Work of equal value.* 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, as amended in 2007 by Act No. 348/2007 Coll., which defines “work of equal value” as being “work of the same or comparable complexity, responsibility and difficulty, carried out under the same or comparable working conditions and producing the same or comparable capacity and output for the same employer”, is narrower than the principle of the Convention and limits the scope of comparison to jobs performed for the same employer. While it notes that the legislation refers to various objective factors in the evaluation of jobs, the Committee would like to highlight nonetheless that when examining two jobs, the value does not have to be the same or even comparable with respect to each of the factors considered. Determining whether two different jobs are of equal value consists of determining the overall value of the jobs when all the factors are taken into account. The principle of the Convention requires equal remuneration for work which is of an entirely different nature, including work with different levels of complexity, responsibility and difficulty, and which is carried out under entirely different conditions and produces different results, but which is nevertheless of equal value. In addition, the Committee

wishes to underline that the application of the principle of the Convention should not be limited to comparisons between men and women in the same establishment, enterprise or sector but allows for a much broader comparison to be made between jobs performed by men and women in different places or enterprises, or between different employers or sectors. Where women are heavily concentrated in certain sectors or occupations, there is a risk that the possibilities for comparison at the enterprise or establishment level may be insufficient (see 2012 General Survey on the fundamental Conventions, paragraphs 676–679 and 697–698). *Given the persistence of occupational gender segregation in the country, noted by the Committee in its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee asks 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. It asks the Government to provide information on any progress made in that regard, as well as on the application in practice of section 119a(2) of the Labour Code, including by providing concrete examples on 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)**

*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 the Government’s indication, in its report, that with a view to improving the situation of Roma pupils, several programmes have been adopted within the framework of the Strategy for the Integration of Roma, as updated to 2020, focusing more particularly on: (i) enhancing access to pre-school education for Roma children, including through the building of new education facilities, an increased number of education assistants and the introduction of a career coach to help them in their choice of secondary school; and (ii) reducing the number of Roma children placed in “special” schools, as a result of new legislation on the diagnosis of the mental capacity of children. In the context of addressing unemployment, other measures have also been adopted with a view to: (i) combating long-term unemployment, in the context of the new Action Plan for the Strengthening of Integration of the Long-term Unemployed, adopted in November 2016, which will also benefit members of the Roma community; and (ii) promoting social inclusion and the employment of Roma people, through community centres and field social work, as a result of two projects which started in March 2017. The Government states that information will be provided on the outcomes of these projects once available. The Committee notes that as a result of resolution No. 25/2019 of 17 January 2019, updated actions plans of the Strategy for the Integration of Roma were adopted for 2019 – 20, in particular in the areas of education and employment, with targeted actions on pre-school education and increased funding for education of Roma children in primary school. Concerning employment, the Committee notes that an action plan provides for: (i) awareness-raising activities on the situation of members of the Roma community in employment; (ii) improved enforceability of anti-discrimination legislation; and (iii) a survey planned for the second half of 2019 on existing barriers to Roma entry into the labour market. The Government also refers to the adoption of Act No. 336/2015 on Support to the Least Developed Districts of the Slovak Republic, which enables the Government to adopt action plans specifically tailored to the needs of the least developed regions and provide them with additional financial resources. Noting the Government’s statement that it is not in a position to provide the statistical information requested by the Committee as such information is not available, the Committee notes that, as recently highlighted by the European Commission, the collection of data about Roma population has been planned under the project “Monitoring and Evaluation of Inclusive Policies and their Impact on Marginalized Roma Communities” for 2016–22, coordinated by the Ministry of Interior and funded by the European Social Fund (European Commission, Report on non-discrimination, 2018, page 53). It also notes that, in its 2018 concluding observations, the United Nations Committee on the Elimination of Racial Discrimination (CERD) expressed concern: (i) at the lack of comprehensive information provided by the Government on the socio-economic status of Roma, which limits the effective monitoring of the different programmes and strategies adopted by the Government; and (ii) about the insufficient resources allocated for the effective implementation of the National Strategy for Roma Inclusion which is also negatively affected by challenges in terms of coordination between national, regional and local authorities (CERD/C/SVK/CO/11-12, 12 January 2018, paragraphs 5 and 17). The Committee further notes with *concern*, the persistent, widespread and systemic discrimination and segregation affecting Roma children in the education system, as noted by several European and international bodies which recommended that all forms of discriminatory practices against Roma, in particular in access to education and employment, be brought to an end (E/C.12/SVK/CO/3, 18 October 2019, paragraph 50; A/HRC/41/13, 16 April 2019, paragraph 121; CERD/C/SVK/CO/11-12, paragraph 25; and European Commission, Country report on non-discrimination, 2018, page 145). *The Committee strongly urges the Government to bring an end to the segregation of Roma pupils in schools and asks the Government to provide information on the steps taken to this end and the results thereof. With regard to the discrimination and segregation faced by Roma pupils, the Committee asks in particular that the Government 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 2020, are assessed and asks the Government to communicate the results of this assessment. The Committee further 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 results of the survey on existing barriers to Roma entry into the labour market. The Committee also asks the Government to provide information on any discrimination cases dealt with by the labour inspectorate, the Ombudsperson or the courts, or other competent authorities, as well as the penalties imposed and remedies granted. Finally, recalling that collecting and analyzing appropriate data and statistics are crucial in determining the nature, extent and causes of discrimination against Roma people and the setting of priorities and the designing of appropriate measures and to the monitoring and evaluation of the impact of such measures, the Committee hopes that the Government will soon be in a position to provide updated statistical information, disaggregated by sex, on the labour market situation of Roma people.*

*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.

## Slovenia

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1992)***

*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 official 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.

### ***Workers with Family Responsibilities Convention, 1981 (No. 156) (ratification: 1992)***

*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.

## Syrian Arab Republic

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1957)**

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 for 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 points in a request addressed directly to the Government.

## Tajikistan

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1993)**

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: (i) report on the concrete measures taken to ensure that direct and indirect discrimination on all grounds is prohibited in law and in practice; and (ii) 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 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: (i) improving legislation in order to realize the State guarantees of creating equal opportunities for women and men; (ii) developing institutional mechanisms to introduce national and international obligations to ensure gender equality and expand women’s opportunities in sectoral policies; (iii) activating mechanisms for the literacy and social inclusion of women, including rural women; (iv) boosting the gender capacity and gender sensitivity of staff members at agencies in all branches of government; and

(v) 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 (CWFA)", 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.

The Committee notes the Government's statement that expanding economic opportunities for women and their competitiveness on 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), 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: (i) the concentration of women in the informal sector and in low-paying jobs in the healthcare, education and agriculture sectors; (ii) 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); (iii) the absence of social security coverage, the shortage of preschool facilities and conflicting family responsibilities, which make women particularly prone to unemployment; (iv) the adoption of the list of occupations for which the employment of women is prohibited, in 2017; and (v) 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 (CEDAW/C/TJK/CO/6, paragraph 37).

With respect to the employment of women in the civil service, the Committee welcomes the various steps taken by the Government. It notes the Government's 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). 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 government. 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 servants", 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 in the report prepared to analyse the implementation of the 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, 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 sector, 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.*

## United Republic of Tanzania

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 2002)**

*Articles 1 and 2 of the Convention. Assessing and addressing the gender wage gap.* The Committee previously noted that, as a result of sections 7(1) and (2) of the Employment and Labour Relations Act, 2004, and Part III of the Employment and Labour Relations (Code of Good Practice) Rules, 2007, employers have an obligation to elaborate and implement a plan to prevent discrimination and promote equal opportunity in employment, which shall be registered with the Labour Commissioner. The Committee notes the Government's statement, in its report, that a generic plan to be used by employers is being elaborated to that end, in collaboration with the ILO as well as employers' and workers' organizations. The Government adds that it will consider availing itself of ILO technical assistance for building capacities of employers' and workers' organizations in that respect. The Committee notes that, according to the 2018 Global Gender Gap Report of the World Economic Forum, the labour force participation rate of women was 81.1 per cent (compared to 88.3 per cent for men), with women being still mostly concentrated in informal employment (76.1 per cent of women) characterized by low wages. It notes, from the 2016 Formal Sector Employment and Earnings Survey, carried out by the National Bureau of Statistics (NBS) that while the proportion of women employed in formal employment is nearly half of the proportion of men (37.8 per cent and 62.2 per cent of total employees, respectively), 23.7 per cent of women are employed in the private sector, while only 14.1 per cent of them are employed in the public sector, where monthly average cash earnings are about three times higher than in the private sector. Furthermore, in 2016, the remuneration of women (monthly average cash earnings) was 15.3 per cent lower than those of men in the public sector and 6.1 per cent lower than men in the private sector. The Committee also notes that women are still concentrated in lower paid sectors such as manufacturing (19.6 per cent) and agriculture (10.3 per cent) and their average remuneration is lower than their male counterparts in almost all industries. The Committee notes with **concern** that, according to the World Economic Forum, men earned on average 39 per cent more than women in 2018. It further notes that, in its 2016 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) remained concerned at the persistent discrimination against women in the labour market, in particular: (i) the high rate of unemployed young women and their marginalization from formal labour markets; (ii) the continuing horizontal and vertical occupational segregation and the concentration of women in low-paid jobs; (iii) the lack of implementation of the principle of equal pay for work of equal value; and (iv) the persistent gender wage gap (CEDAW/C/TZA/CO/7-8, 9 March 2016, paragraph 32). **The Committee therefore urges the Government to provide information on: (i) the proactive measures taken to address the gender wage gap, both in the public and private sectors, by identifying and addressing the underlying causes of pay differentials, such as vertical and horizontal job segregation and gender stereotypes, covering both the formal and the informal economy, and by promoting women's access to a wider range of jobs with career prospects and higher pay; (ii) any measures taken 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, including through the elaboration and implementation by employers of plans to promote gender equality at the workplace, as provided for under sections 7(1) and (2) of the Employment and Labour Relations Act; and (iii) statistical data on the earnings of men and women in all the sectors and occupations of the economy 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)**

*Article 1(1)(a) of the Convention. Discrimination based on sex. Job advertisements.* The Committee previously noted that 14.9 per cent of job vacancies in 2013 contained a sex preference. The Committee notes the Government's indication in its report that it is developing, with the support of the ILO and in consultation with employers' and workers' organizations, a plan with a view to giving effect to the provisions of section 7(1) and (2) of the Employment and Labour Relations Act No. 6 of 2004 (ELRA), which require an employer to prepare and register with the Labour Commissioner a plan to promote equal opportunities and eliminate discrimination at the workplace. It notes the Government's statement that

this plan will provide guidance to employers on the implementation of all matters relating to equality and discrimination, including sex based discrimination in recruitment and job advertisements. The Committee notes that, according to the 2016 Formal Sector Employment and Earnings Survey carried out by the National Bureau of Statistics (NBS), 6.7 per cent of job vacancies still contained a sex preference. It notes that 4.4 per cent of those vacancies (representing 8,914 job vacancies) preferred male employees, while specific sectors which are traditionally considered as female dominated preferred female candidates, such as clerical occupations (92 per cent of job vacancies preferred women). The Committee recalls that recruitment decisions that are based upon stereotyped assumptions regarding women's capabilities and their suitability for certain jobs is a form of sex discrimination. Such discrimination results in segregation of men and women in the labour market. The Committee reminds the Government that the application of the principle of equality guarantees every person the right to have his or her application for a chosen job considered equitably, without discrimination based on any of the grounds of the Convention, and that only objective recruitment criteria should be used in the choice of the candidate (see the 2012 General Survey on the fundamental Conventions, paragraphs 754 and 783). ***The Committee therefore urges the Government to address without delay discriminatory advertising and hiring practices, through the development and implementation of the envisaged generic plan to promote equal opportunity and eliminate discrimination or otherwise through awareness-raising activities, in order to eliminate gender stereotypes, including stereotyped assumptions by employers of women's or men's suitability for certain jobs. The Government is further asked to provide information on any steps taken to encourage women to apply for posts traditionally held by men. The Committee also asks the Government to provide information on the proactive measures taken to this end, including in collaboration with employers' and workers' organizations, and to continue to provide statistical information on the number of job vacancies containing a sex preference.***

*Article 1(1)(b). Additional grounds of discrimination. HIV status.* The Committee previously noted the Government's indication that the HIV and AIDS (Prevention and Control) Act No. 28 of 2008 is enforced through policy formulation and the HIV and AIDS Guidelines in the Public Service adopted in February 2014. The Committee notes that the Government repeats the information provided in its last report, namely that (i) the regulations under section 52(m) of Act No. 28 of 2008 have not yet been adopted; (ii) the Tripartite Code of Conduct on HIV and AIDS at the workplace, providing for the promotion of equal opportunities and the elimination of stigma and discrimination at workplaces, has been reviewed in collaboration with the social partners; and (iii) the third National Multi-Sectoral Strategic Framework for HIV and AIDS for 2013/14-2017/18 has been adopted. It notes, however, that the Government has not provided the information previously requested by the Committee in this regard. The Committee further notes that in the framework of the Universal Periodic Review, the United Nations Country Team (UNCT) in Tanzania stated that discrimination related to HIV/AIDS remained institutionalized at the workplace and the practice was prevalent, inter alia, in certain large mining companies in the private sector and in the police force (A/HRC/WG.6/25/TZA/2, 7 March 2016, paragraph 17). ***Noting that the third National Multi-Sectoral Strategic Framework for HIV and AIDS for 2013/14-2017/18 aims at zero stigma and discrimination against persons living with HIV, including in the workplace interventions both in the public and private sectors, the Committee repeats its request that the Government provide information on the implementation of the Framework with respect to matters that relate to discrimination based on HIV and AIDS in employment and occupation in the public and private sectors, in particular in the police force. The Committee requests that the Government provide a timetable for the adoption of the implementing regulations of the HIV and AIDS (Prevention and Control) Act No. 28 of 2008, and asks the Government to provide a copy of such regulations once adopted. The Committee also asks the Government to provide information on any cases of discrimination on the ground of HIV status in employment and occupation dealt with by the labour officers, the courts or any other authorities, specifying the penalties imposed and the compensation awarded.***

*Articles 2 and 3. Equality of opportunity and treatment between men and women.* The Committee previously noted the low participation rate of women in the economy and the continued occupational gender segregation in the labour market. The Committee notes the Government's general statement that it has continued to take affirmative action, reaffirming its commitment to improving women's access to education, training, employment and income generation. The Government refers in particular to the measures taken to increase women's access to credit facilities and loans, in collaboration with the private sector, development partners and civil society organizations, including through the Women Development Fund, and to promote rural micro finance services, such as the Savings and Credit Cooperative Societies and the Village Community Banks (VICOBA). The Government adds that it has also strengthened its efforts to promote women's transition from the informal economy to the formal economy, in collaboration with the social partners, with regard to the provision of business development services, the extension of social protection, and the enhancement of the enforcement of labour laws. The Committee takes note of the Five Year Development Plan 2016/2017-2020/21 (FYDP II), implemented in the framework of the Tanzania Development Vision 2025, which sets as objective to accelerate economic growth by making sure that it will benefit to significant poverty reduction and job creation especially for the youth and women. The Committee notes, however, that according to the 2016 Formal Sector Employment and Earnings Survey, the participation of women in the formal employment remained relatively low with only 37.8 per cent of total employees in the formal economy being women. Furthermore, according to the 2018 Global Gender Gap Report of the World Economic Forum, women remain disproportionately concentrated in informal employment (76.1 per cent). The Committee also notes the persisting occupational gender segregation, with women still over-represented in certain sectors, such as education and human health and social work activities. It also notes that in its 2016 concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) remained concerned at the persistent discrimination against

women in the labour market, in particular: (i) the high rate of unemployed young women and their marginalization from formal labour markets; (ii) the continuing horizontal and vertical occupational segregation and the concentration of women in low-paid jobs; (iii) the low representation of women in decision-making positions at the local level and in management positions on supervisory boards of companies; (iv) the limited access of women to financial assistance and credit, as well as at the limited support for women's entrepreneurial activities which are mainly confined to the informal sector without access to the wider economic growth; (v) the persistence of adverse cultural norms and practices and deep-rooted patriarchal attitudes regarding the roles and responsibilities of women and men in the family and in society; and (vi) the lack of information on labour inspections of women's working conditions, in particular in the private and informal sectors. The CEDAW was more particularly concerned at the disadvantaged position of women in rural and remote areas who form the majority of women in the country (CEDAW/C/TZA/CO/7-8, 9 March 2016, paragraphs 18(a), 26, 32, 38 and 40). In light of the above, the Committee wishes to emphasize the importance of regularly monitoring and assessing the results achieved within the framework of the national equality policy with a view to reviewing and adjusting existing measures and strategies and identifying any need for greater coordination between measures and strategies and between competent bodies in order to streamline interventions, in order for the Government and the social partners to be able to assess the real impact of such measures periodically. *The Committee therefore urges the Government to strengthen its efforts to address both vertical and horizontal segregation between men and women in the labour market, as well as gender stereotypes. The Government is asked to provide information on the specific and concrete measures taken to promote women's economic empowerment and access to formal employment as well as to decision-making positions, including within the framework of the FYDP II. The Government is also asked to provide detailed information on the impact of any such measures in improving equality of opportunity and treatment between men and women in employment and occupation, by means of regularly monitoring and assessing the results achieved. Noting that in the framework of the Universal Periodic Review, the Government indicated that it was in the process of reviewing the National Gender Policy in order to incorporate current emerging issues (A/HRC/WG.6/25/TZA/1, 10 February 2016, paragraph 37), the Committee asks the Government to provide information on any progress made in that regard. It also 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 statistical information provided by the Government and the efforts made to increase the enrolment rate of children in education as a result of the National Strategy on Inclusive Education (2009–17). The Committee notes, however, that according to the 2017 study on “Women and Men in Tanzania – Facts and Figures” carried out by the NBS, the percentage of men with secondary education or above was larger (25 per cent) than women (18.6 per cent); women account for the highest proportion of those who did not attend school (22.3 per cent of women compared to 11.3 per cent of men). Only 0.8 per cent of women attended university. The Committee notes that, according to its 2016 concluding observations the CEDAW expressed concern at the persistence of structural and other barriers to girls' access to high-quality education, in particular at the secondary and tertiary levels, especially in rural areas, as well as at the continued prevalence of the practice of mandatory pregnancy testing of girls as a precondition for admission to school and their expulsion if found to be pregnant (CEDAW/C/TZA/CO/7-8, paragraph 30). The Committee wishes to stress in that regard 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 take all the necessary measures without delay to ensure effective protection of girls and women against discrimination on the basis of pregnancy and mandatory pregnancy testing, including through awareness-raising activities on this serious form of sex discrimination, and to provide information on any progress made in this regard, as well as on the number of girls and women expelled from educational institutions as a result of pregnancy. It also asks the Government to provide information on the concrete measures taken to enhance access for girls and women to higher education and vocational training, especially in areas traditionally dominated by men, as well as on their impact in improving equality of opportunity and treatment between men and women in employment and occupation, including by combatting sexist stereotypes and prejudices which continue to hinder the participation of women in the country's economy. The Committee asks the Government to provide updated information on the number of men and women enrolled in education and vocational training 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.

## Togo

### **Discrimination (Employment and Occupation) Convention, 1958 (No. 111)** (ratification: 1983)

*Article 1(1)(a) of the Convention. Discrimination on the basis of sex.* The Committee recalls that it welcomed the adoption in July 2012 of the new Personal and Family Code, which repealed a number of provisions that were discriminatory towards women. However, the Committee stressed the fact that some discriminatory provisions remained, including those connected with the status of “head of the family” (benefiting the husband) and asked the Government to take the necessary steps to repeal them. The Committee recalls that in practice the concept of “head of the family” to the benefit of the husband has the effect of perpetuating negative stereotypes regarding the role of women in the family and, more generally, in society,

which tends to perpetuate and reinforce inequalities in vocational guidance and training and in employment. The Committee notes with *satisfaction* the adoption of Act No. 2014-019 of 17 November 2014, which has amended the Personal and Family Code and, in particular, abolished the status of “head of the family” by making both spouses jointly responsible for the family (new section 99) and abolished discriminatory provisions towards women with regard to inheritance. ***Noting that there have been plans since December 2018 for the Ministry of Social Action, Promotion of Women and Literacy to organize meetings to publicize the new Personal and Family Code, the Committee requests the Government to provide information on any specific activities undertaken to raise awareness of its provisions and on its application in practice. The Committee also requests the Government to take steps to combat sexist stereotypes regarding the aspirations, preferences and occupational capabilities of women and their role in the family and society in general.***

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

## Trinidad and Tobago

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)***

*Article 1 of the Convention. Equal remuneration for work of equal value. Legislation.* Recalling that the Equal Opportunity Act, 2000, contains no specific provisions regarding equal remuneration for men and women for work of equal value, the Committee has been requesting for many years that the Government take steps to give full legislative expression to the principle of the Convention. It notes the Government’s statement that the Industrial Relations Advisory Committee (IRAC) submitted a policy position paper on the basic terms and conditions of work to the Minister of Labour and Small Enterprise Development in May 2018 (and a revised paper in July 2018) and that national stakeholder consultations on employment standards were held in August and September 2018. These consultations focused on the IRAC’s Policy Recommendations on Employment Standards and a proposed list of definitions. The Government adds that it has established gender focal points in each Ministry in order to address issues such as equal remuneration for men and women for work of equal value. The Committee recalls that *Article 2(2)(a)* of the Convention specifies national laws and regulations as a method of applying the principle of the Convention and that guidance provided by the Equal Remuneration Recommendation, 1951 (No. 90) supports legal enactment for the general application of the principle. It emphasizes that legal provisions that are narrower than the principle laid down in the Convention – in that they do not give expression to the concept of “work of equal value” – hinder progress in eradicating gender-based pay discrimination (see 2012 General Survey on the fundamental Conventions, paragraph 679). In this regard, it notes with *concern* the lack of progress towards a full legislative implementation of the principle contained in the Convention. ***In view of the above, the Committee urges, once again, the Government to take steps to give full legislative expression to the principle of equal remuneration for men and women for work of equal value and to provide information on any progress in this regard.***

*Articles 1 and 2. Assessing and addressing the gender pay gap.* In its previous comment, the Committee, noting the Government’s commitment to address the gender pay gap and occupational gender segregation, requested it to provide information on the concrete steps taken and the progress made in this regard. It notes the Government’s statement that initiatives aimed at addressing these issues are being developed in the National Policy on Gender and Development, without further details about the nature of these initiatives, their timeframe and the results achieved. It notes, from the statistics provided by the Government on the average monthly income by sex and occupational group that, in 2016, the gender pay gap between men and women ranged from 15.5 per cent (for professionals, down from 21.5 per cent in 2012) and 15.6 per cent (for technicians and associate professionals, up from 10 per cent in 2012) to 38.7 per cent (for service and shop sales workers, down from 41.7 per cent in 2012). The statistics concerning the average monthly income by sex and industry also show a gender pay gap in favour of men (except in electricity and water), ranging from 5.2 per cent in the transport, storage and communication industry (down from 8.6 per cent in 2012) to 30.8 per cent in the wholesale and retail trade, restaurants and hotels (down from 34.9 per cent in 2012). While acknowledging that these statistics do not necessarily compare work of equal value, the Committee underlines that they reflect a predominant gender pay gap in favour of men as well as an occupational gender segregation. ***The Committee asks the Government to provide information on the initiatives developed and the concrete measures taken within the framework of the National Policy on Gender and Development and the results achieved. It also asks the Government to continue to provide detailed statistical data on the earnings of men and women according to occupational group and industry, as well as information on the minimum wage.***

*Collective agreements.* In its previous comment, the Committee asked the Government to indicate how it is ensured that, in determining wage rates in collective agreements, the principle of equal remuneration for men and women for work of equal value is effectively taken into account by the social partners and applied, and the work performed by women is not being undervalued in comparison to that of men who are performing different work. It noted the continued use of non-gender-neutral terminology to describe certain categories of workers (such as greaseman, watchman, handyman, charwoman, female scavenger, etc.) which may serve to intensify sex segregation of occupations. The Committee notes the Government’s reiterated support of the principle in question and its indication that, during the on-going re-grading and reclassification exercise for daily rated workers of the Port-of-Spain Corporation, gender-neutral designation of posts will be given consideration in order to ensure the application of the principle. ***The Committee asks the Government to indicate the results of the re-grading and reclassification exercise for daily rated workers of the Port-of-Spain Corporation. It also asks the Government to indicate how the principle of equal remuneration for men and women for work of equal***

*value is effectively taken into account by the social partners and applied when determining wage rates in collective agreements, in particular in sectors or occupations where women are heavily concentrated.*

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111) (ratification: 1970)***

*Article 1(1)(a) of the Convention. Discrimination based on sex.* In a comment adopted in 2015 and repeated in 2017 and 2018, the Committee recalled that for many years, it had been expressing concern about the discriminatory nature of several provisions concerning married female police officers. It noted the Government's indication that Regulation 52 of the Police Commission Regulations, which provides that the appointment of a married female police officer may be terminated on the ground that her family obligations are affecting the efficient performance of her duties, would be put before the Police Service Commission for consideration. The Committee also recalled the potentially discriminatory impact of section 14(2) of the Civil Service Regulations which requires a female officer who marries to report the fact of her marriage to the Public Service Commission. The Committee requested the Government to take the necessary steps to revoke Regulation 52 of the Police Commission Regulations and to provide information on the measures taken to amend section 14(2) of the Civil Service Regulations to eliminate any potentially discriminatory impact. The Committee notes the Government's indication that the request for the revocation of Regulation 52 was submitted to the Police Service Commission and is still ongoing, and that information on the amendment of section 14(2) of the Civil Service Regulations would be transmitted in a subsequent report. The Committee notes with *deep concern* that very little progress seems to have been made with regard to these long-standing issues. ***In view of the above, the Committee is bound to ask, once again, that the Government revoke Regulation 52 of the Police Commission Regulations without further delay and to amend section 14(2) of the Civil Service Regulations in order to eliminate any potentially discriminatory impact, for example by requiring notification of name changes for both men and women.***

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

## **Turkey**

### ***Equal Remuneration Convention, 1951 (No. 100) (ratification: 1967)***

The Committee notes the observations of the Confederation of Turkish Trade Unions (TÜRK-İŞ) and the Turkish Confederation of Employer Associations (TİSK), communicated with the Government's report. It further notes that the observations made by TİSK were supported by the International Organisation of Employers (IOE) in a communication received on 31 August 2017.

*Articles 1 to 3 of the Convention. Women's employment and job segregation. Gender wage gap.* In its previous comments, the Committee asked the Government to take proactive measures to address job segregation and to provide statistics on employment by sector and occupation disaggregated by sex. The Committee notes from the Labour Force Statistics published in March 2019 by the Turkish Statistical Institute that the employment rate of women above the age of 15 years was 29.1 per cent in 2018 and is 28.8 in 2019 (against 65.5 per cent and 62.4 per cent for men, respectively). The Committee notes that the 2016 statistics provided by the Government show both an important occupational gender segregation by sector of activity – horizontal occupational segregation (in 2016, women represented around 24 per cent of the workers in wholesale and retail trade, in transportation and storage, in information and communication, arts, entertainment and recreation, and in manufacturing; and 70.8 per cent of the workers in human health and social work activities and 52.8 per cent in education) and by level of occupation – vertical occupational segregation (in 2016, 15 per cent of the managers were women and they represented 41.2 per cent of workers in the elementary occupations). With respect to public employment, the Committee notes from the statistics provided by the Government that women represented only 37.31 per cent of all public personnel in 2016. The Committee further notes from the statistics provided by the Government that public employment is highly segregated by sex, as women are in a minority in all service classes, except in “Education and Training” (54.44 per cent) and “Health and Auxiliary Health Services” (66.29 per cent). The Committee notes from the information provided in the scope of the Programme “More and Better Jobs for Women” implemented by the ILO with funding from the Swedish International Cooperation Development Agency (SIDA) that the difference in average wages between men and women who are engaged in paid employment is 12.9 per cent overall and, that in sectors where the feminization rate is higher the hourly gender wage gap is also higher (for example, 56.6 per cent in health and 60.5 per cent in care services). The Committee recalls that some of the underlying causes of pay inequality have been identified as the following: horizontal and vertical occupational segregation of women into lower paying jobs or occupations and lower level positions without promotion opportunities; lower, less appropriate and less career-oriented education, training and skill levels; household and family responsibilities; perceived costs of employing women; and pay structures (General Survey of 2012 on the fundamental Conventions, paragraph 712).

The Committee notes from the TÜRK-İŞ's observations that differentiation in wages between female and male employees may be explained by the low level of wages in sectors where women commonly work (textile, food, tourism) and the level of women's education, their literacy rate and their low rate of participation in employment. The Committee notes from the Government's report that women benefit from vocational training courses, on-the-job and entrepreneurship

training programmes organized by the Turkish Employment Agency (ISKUR) and that various programmes, including the Programme “More and Better Jobs Women”, the “Engineer Girls Project”, the “Women Masters Projects” (2016–17) and the Project on “Increasing Access of Women to Economic Activities”, are being or have been implemented to increase employment opportunities and access to qualified employment for women and develop concrete solutions and policies in this regard. The Committee also notes that research and activities have been carried out on the development of childcare to better balance work and family responsibilities. In this respect, the Committee refers the Government to its comments under the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). In addition, the Committee wishes to stress the importance of regularly monitoring and assessing the results achieved with a view to reviewing and adjusting existing measures and strategies on reducing the gender pay gap. **Recalling that occupational segregation, with women in lower paying jobs or sectors, is an underlying cause of remuneration gaps and noting the steps already taken in this regard, the Committee asks the Government to: (i) increase its efforts to address effectively both vertical and horizontal occupational segregation of men and women in the labour market as well as gender stereotypes; (ii) promote the access of women to a wider range of occupations and to higher positions both in the public and the private sectors, including through the development of lifelong learning; and (iii) provide information on the impact of these measures on the employment rate of women and the occupational gender segregation by sector of activity and by level of occupation. The Committee also asks the Government to continue to provide statistics on occupation by sector and level of occupation disaggregated by sex and to provide any recent study or statistics available on the gender pay gap, by sector if possible.**

*Article 1(a) of the Convention. Additional emoluments. Family allowances. Civil service.* The Committee recalls that section 203 of the Civil Servants Act, 1965, which provides that family allowances are paid to the father if both parents are civil servants, was being reviewed and in previous comments it has requested the Government to ensure that the new provision will adequately take the Convention into consideration and that the decision concerning which of the two parents will receive the family allowances is left to the parents in each case. It notes with *regret* that the Government indicates that no change was made to this section. The Committee recalls that, in order to ensure the application of the principle of equal remuneration for men and women for work of equal value, the definition of remuneration established by the Convention is to include all elements that workers may receive in exchange for their work and arising from their employment, regardless of whether the employer pays in cash or in kind, and directly or indirectly. The Committee draws the Government’s attention to paragraph 693 of its General Survey of 2012 on the fundamental Conventions in which the possibility of allowing both spouses to choose which of them should receive the family allowances, rather than establishing the principle that they should be paid systematically to the husband. **The Committee asks the Government to take the necessary measures so that section 203 of the Civil Servants Act, 1965, is amended with a view to ensuring that men and women civil servants are entitled to family allowances on an equal footing. The Committee asks the Government to provide information on the progress made to this end.**

*Article 3. Objective job evaluation.* The Committee notes the information provided by TİSK describing the Metal Industry Job Evaluation System (MIDS), which has been in use for 35 years, and the current review of this system since it has become insufficient to meet the needs of the enterprises in the sector. In this regard, the Committee notes that, according to TİSK, the MIDS is a system based on the principle of “equal pay for equal work”, which assesses jobs according to 12 different factors under the four main factors (i.e. skill, responsibility, effort and business conditions). The Committee would like to recall that the concept of “work of equal value” 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 (see General Survey of 2012, paragraph 673). **The Committee asks the Government to continue to take steps to develop and promote the use of objective job evaluation methods in all sectors and to ensure that the principle of equal remuneration for men and women for “work of equal value”, and not only for “equal work”, is made an explicit objective of such an evaluation method. The Committee also asks the Government to provide information on the review of the Metal Industry Job Evaluation System mentioned by TİSK, including details on the criteria and the principle established and any results obtained in terms of wage adjustments, as well as information on any other job evaluation system currently used in other sectors of the economy.**

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

### ***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)*** ***(ratification: 1967)***

The Committee notes the observations of the Turkish Confederation of Employer Associations (TİSK) received on 31 August 2017 which were supported by the International Organisation of Employers (IOE) and the Government’s reply thereto. The Committee also notes the observations of Education International (EI) and the Education and Science Workers’ Union of Turkey (EGITIM SEN) received on 1 September 2017 and the Government’s reply thereto. It further notes the observations of the Turkish Confederation of Public Workers Associations (Türkiye Kamu-Sen) and the Confederation of Turkish Trade Unions (TÜRK-İS) which were attached to the Government’s report.

*Articles 1 and 4 of the Convention. Discrimination based on political opinion. Activities prejudicial to the security of the State.* In its previous comments, the Committee had noted with deep regret that the Government had not provided any information on the practical application of the Anti-Terrorism Act and the Penal Code in cases involving journalists,

writers and publishers expressing their political opinions. *Noting that the Government did not provide the required information, the Committee firmly urges the Government to provide information on the practical application of the Anti-Terrorism Act and the Penal Code in cases involving journalists, writers and publishers, as well as on all the cases brought before the courts against them, indicating the charges brought and the outcome.*

*Massive dismissals in the public sector: civil servants, teachers and members of the judiciary.* The Committee notes the observations of EGITIM SEN alleging the arbitrary dismissals of hundreds of its members (1,546 as of August 2017) from their teaching positions without any proof and without any court hearing; more than 300 were dismissed from their university positions because they had been critical of the Government and signed a petition in this regard. It also notes that, according to Türkiye Kamu-Sen, in 2015, 75,000 head teachers lost their jobs overnight (50,000 of these were members of EGITIM SEN). The Committee notes the Government's indication in its report that the dismissals of civil servants, members of the judiciary and teachers took place after the coup attempt in July 2016, "on the grounds of membership, affiliation or connection with a terrorist organization". The Government adds that under the Penal Code and the Public Servants Law (Law No. 657), public officials who have been under investigation on charges of membership of a terrorist organization or an offense against constitutional order can be suspended from their posts, because "their conducting public duties constitutes a major threat to the security of public services, causing the disruption of it". The Government emphasizes that the criteria of loyalty to the State has to be met by civil servants. It also indicates that it has adopted several state of emergency decrees, including Decree-Law No. 667 on measures taken within the scope of state of emergency stating that "members of the judiciary, including the Constitutional Court, and all State officials shall be dismissed from the profession or the public service, if they are considered to have an affiliation, membership, cohesion or connection to terrorist organizations or to groups, formations or structures determined by the National Security Council to be engaged in activities against the national security of the State". Members of the judiciary who have been expelled from the profession can file a complaint before the Council of State. The Government adds that, pursuant to Emergency Decree-Law No. 6851, a commission to review the actions taken under the scope of state of emergency (hereafter the Inquiry Commission) has been established for a term of two years to assess and decide upon applications lodged by public servants, through the governorates or the last institution in which they were employed, against expulsion from their profession, cancellation of fellowship, dissolution of organizations, or the reduction in ranks in the case of retired personnel. According to the Government, the examination of complaints takes place on the basis of the documents that are in the file, and the decision of the Inquiry Commission is subject to judicial review by the courts.

The Committee notes from the Report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the impact of the state of emergency on human rights in Turkey (January–December 2017), that "following the coup attempt [July 2016] at least 152,000 civil servants were dismissed, and some were also arrested, for alleged connections with the coup, including 107,944 individuals named in lists attached to emergency decrees" and over "4,200 judges and prosecutors were dismissed". The OHCHR's report also indicates that "an additional 22,474 people lost their jobs due to closure of private institutions, such as foundations, trade unions and media outlets" (paragraph 8). The Committee notes that the OHCHR observed that "dismissals were accompanied by additional sanctions applied to physical persons dismissed by decrees or through procedures established by decrees", including a lifelong ban from working in the public sector and in private security companies and the systematic confiscation of assets and the cancellation of passports (paragraph 68). According to the OHCHR's report, "[d]ismissed people lost their income and social benefits, including access to medical insurance and retirement benefits". Finally, the Committee notes the concern expressed by the OHCHR that "the stigma of having been assessed as having links with a terrorist organization could compromise people's opportunities to find employment" (paragraph 70).

The Committee also refers the Government to its 2018 observation, under the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), on the massive dismissals that took place in the public sector under the state of emergency decrees, and to the discussion that took place in the Conference Committee on the Application of Standards (CAS) in June 2019 on the application by Turkey of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

The Committee recalls that, under *Article 1(1)(a)* of the Convention, discrimination on the basis of political opinion is prohibited in employment and occupation. It also recalls that in paragraph 805 of its General Survey of 2012 on the fundamental Conventions, the Committee indicated that protection against discrimination on the basis of political opinion implies protection in respect of the activities of expressing or demonstrating opposition to established political principles and opinions and in respect of political affiliation. The Convention allows for exceptions, including measures warranted by the security of the State under *Article 4*, which are not deemed to be discrimination and must be strictly interpreted to avoid any undue limitations on the protection against discrimination. The Committee also recalls that it indicated in paragraphs 833–835 of its General Survey of 2012 that such measures "must affect an individual on account of activities he or she is justifiably suspected or proven to have undertaken" and they "become discriminatory when taken simply by reason of membership of a particular group or community". As "the measures refer to activities qualifiable as prejudicial to the security of the State, [t]he mere expression of opinions or religious, philosophical or political beliefs is not a sufficient basis for the application of the exception. Persons engaging in activities expressing or demonstrating opposition to established political principles by non-violent means are not excluded from the protection of the Convention by virtue of *Article 4*. ... All measures of state security should be sufficiently well defined and precise to ensure that they do not become instruments

of discrimination on the basis of any ground prescribed in the Convention. Provisions couched in broad terms, such as ‘lack of loyalty’, ‘the public interest’ or ‘anti-democratic behaviour’ or ‘harm to society’ must be closely examined in the light of the bearing which the activities concerned may have on the actual performance of the job, tasks or occupation of the person concerned. Otherwise, such measures are likely to entail distinctions and exclusions based on political opinion ... contrary to the Convention.” In addition, the Committee recalls that “the legitimate application of this exception must respect the right of the person affected by the measures ‘to appeal to a competent body established in accordance with national practice’”. The Committee also recalls that “it is important that the appeals body be separate from the administrative or governmental authority ... offer a guarantee of objectivity and independence, and ... be competent to hear the reasons for the measures taken against the appellant and to afford him or her the opportunity to present his or her case in full”.

***The Committee urges the Government to take appropriate steps to ensure that the requirements of the Convention are fully adhered to, taking into account the various criteria explained above. The Committee asks the Government to continue to provide information on the number of dismissals in the public sector, including teachers, that have taken place for reasons linked to the security of the State. The Committee further asks the Government to continue to provide information on the total number of appeals reviewed by the Inquiry Commission or by the courts, and their outcome, and to indicate whether in the course of the proceedings dismissed employees have the right to present their cases in person or through a representative. The Committee further asks the Government to provide information on the number of complaints brought by dismissed employees alleging discrimination on the ground of political opinion.***

***Recruitment in the public sector.*** The Committee notes the Government’s indications regarding the recruitment of personnel in the public sector, in reply to its previous request regarding the allegations made by the Confederation of Public Employees Trade Unions (KESK) regarding discrimination against civil servants (the recording in personnel files of inappropriate data, discriminatory use of promotion and appointments, and of the rewards system) and to the lack of adequate sanctions in the event of discrimination. The Committee notes that the Government indicates that, for a first appointment or a reappointment in the public sector, a “security investigation” and an “archival research” have to be conducted in strict confidentiality at every stage. According to the Government, it is therefore not possible to give information to individuals or institutions other than the institution requesting the investigation. The Government adds that recruitment in public institutions and organizations is made through a merit-based central examination and placement procedure. The Committee notes from the observations made by Türkiye Kamu-Sen that appointment and promotion practices by way of oral examination or interviews work in favour of unions close to the Government and subject members of other unions to discrimination. The union adds that “while it has been recorded in court judgments ... that the interviews were not a fair means of evaluation”, and “the Government still does not implement these court decisions and continues to discriminate”. ***The Committee asks the Government to take appropriate steps to ensure that, in practice, recruitment in the public sector is taking place without discrimination based on the grounds set out in the Convention, in particular political opinion. The Committee also asks the Government to ensure that victims of discrimination in recruitment and selection in the public sector have effective access to adequate procedures to review their case and to appropriate remedies. The Government is asked to provide information on any existing procedure allowing for an appeal against a negative decision in the recruitment process, the number and outcome of such appeals, and the effective implementation of court decisions relating to discrimination in recruitment and selection in the public sector.***

***Articles 1 and 2. Protection of workers against discrimination in recruitment. Legislation.*** For a number of years, the Committee has been referring to the fact that section 5(1) of the Labour Code, which prohibits any discrimination based on language, race, sex, political opinion, philosophical belief, religion and sect, or similar reasons in the employment relationship, does not prohibit discrimination at the recruitment stage. The Committee notes with *satisfaction* the adoption, in April 2016, of the Law on the Human Rights and Equality Institution of Turkey (Law No. 6701) which, in article 6, prohibits discrimination on the basis of gender, race, colour, language, religion, faith, sect, philosophical or political opinion, ethnic origin, wealth, birth, civil status, medical condition, disability or age, during the application, recruitment and selection processes, in employment and for termination of employment, and with respect to job advertisements, working conditions, vocational guidance, access to vocational training, retraining, on-the-job training, “social interests and similar subjects.” According to article 6(3) of the Law, it is prohibited for employers or their representatives to reject a job application due to pregnancy, motherhood or childcare. The Committee notes that labour contracts or contracts for services which are excluded from the scope of labour legislation, and self-employment are covered by the provisions of article 6 of Law No. 6701. The Committee also welcomes the inclusion of employment in public institutions and organizations within the scope of this article. ***The Committee asks the Government to provide information on the application in practice of article 6 of Law No. 6701 and, in particular, to indicate if any complaints by workers or any labour inspection reports were made under article 6, and their outcome.***

***Article 2. Equality between men and women. Vocational education and training and public and private employment.*** The Committee recalls that in its previous comments, it has underlined the need to promote the access of women to adequate education and vocational training and to increase their participation in the labour force and in the public sector. With respect to the employment of women in the public service, the Committee notes the Government’s indication that their participation has substantially increased due to temporary arrangements regarding working time and unpaid leave made available to mothers and fathers. As regards the private sector, it further notes that, according to the labour force statistics of February 2019, the labour force participation rate for women was 34 per cent (against 33.3 per cent in February

2018). The Committee notes that in its concluding observations, the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) expressed concern about “the persistence of deep-rooted discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society”, which “overemphasize the traditional role of women as mothers and wives, thereby undermining women’s social status, autonomy, educational opportunities and professional careers”. The CEDAW also noted with concern that “patriarchal attitudes are on the rise within State authorities and society” and expressed concern “about the high dropout rate and underrepresentation among girls and women in vocational training and higher education, in particular in deprived rural areas and refugee communities” (CEDAW/C/TUR/CO/7, 25 July 2016, paragraphs 28 and 43). The Committee welcomes the detailed information provided by the Government in its report, on the numerous programmes, projects, measures and activities developed and implemented with a view to promoting gender equality, including awareness-raising initiatives to fight against gender stereotypes and violence against women, strategies to reconcile work and family responsibilities such as the development of kindergartens and the provision of support for child care, vocational training programmes for women in non-traditional fields, on-the job and entrepreneurship training programmes. The Committee notes that the Government also mentions the adoption of a Women’s Employment Action Plan (2016–18) within the framework of the programme entitled “More and better jobs for women: Women’s empowerment through decent work in Turkey” implemented jointly by the ILO and the Turkish Employment Agency (ISKUR) and financed by the Swedish International Development Agency (SIDA). The Government adds that the Action Plan aims to increase women’s vocational skills and their means of access to the labour market and that 81 Provincial Gender Representatives, who received gender training, were appointed to monitor and report on its implementation together with the staff of ISKUR. The Committee also notes from the observations made by the TİSK that, according to the labour statistics, “one of the issues that needs to be addressed in order to facilitate the access of women to the labour market is education”. The TİSK adds that, given the large number of women employed in the informal economy – in particular in agriculture – “priority must be given to the policies which will decrease undocumented work or informal employment of working women”. The TİSK further points out that one of the main obstacles for women entering employment and on progressing in their career is the difficulties they face in reconciling work and domestic duties and that, despite the efforts made, there are not enough childcare institutions. *Noting the encouraging developments regarding the promotion of gender equality in employment but also the very slow increase in the labour force participation rates for women, the Committee asks the Government to step up its efforts and continue taking specific measures, including within the framework of the ILO–ISKUR–SIDA programme, to promote the access of women to adequate education and vocational training and formal and paid employment, including to higher level positions. The Committee also asks the Government to provide information on the results achieved through the Women’s Employment Action Plan for 2016–18, including statistics disaggregated by sex showing the evolution of women’s employment in both the public and the private sectors. The Committee asks the Government to take proactive measures to actively combat persistent gender stereotypes and stereotypical assumptions regarding women’s aspirations, preferences and capabilities and “suitability” for certain jobs and their role in society, and to continue to take steps to enable women – who continue to bear the unequal burden of family responsibilities – to reconcile work and family responsibilities, including through the development of childcare and family facilities and support and by the removal of administrative obstacles to which the Government refers in this regard.*

*Dress code.* The Committee welcomes the Government’s indication that further to the amendment in 2013 and 2016 of the Regulations on the dress code of personnel employed in public institutions, security organizations and armed forces, women working in these institutions and organizations are now allowed to work with a headscarf. The Committee hopes that the Government will continue to ensure that all persons working in public institutions, security organizations and armed forces continue to enjoy protection against religious discrimination on the basis of a dress code.

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

## United Arab Emirates

### **Equal Remuneration Convention, 1951 (No. 100) (ratification: 1997)**

*Articles 1 and 2 of the Convention. Work of equal value. Legislation.* The Committee previously asked the Government to take the necessary measures to bring section 32 of the Federal Act No. 8 of 1980 on Regulation of Labour Relations into conformity with the Convention, as it only provides for equal remuneration between men and women for the same work, which is narrower than the concept of “equal value” provided for in the Convention. The Committee notes the Government’s indication that a draft legislation of the Labour Relations Regulation is still under consideration by the competent national legislative bodies that will take into account the Committee’s comments. 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. 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 General Survey on the fundamental Conventions, 2012, paragraphs 672–679). *The Committee therefore urges the Government to take the necessary measures to amend section 32 of Federal Act No. 8 of 1980 to capture the concept of “work of equal value” so as to ensure the effective application of the Convention. Please, provide information on the progress made in this regard.*

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

***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)***  
***(ratification: 2001)***

*Articles 2 and 3 of the Convention. National policy on equality of opportunity and treatment.* In its previous comments, the Committee urged the Government to make every effort to ensure that the proposed amendments to Federal Law No. 8 of 1980 on the regulation of labour relations include a specific provision defining and explicitly prohibiting both direct and indirect discrimination on all the grounds set out in *Article 1(1)(a)* of the Convention, covering all workers and all aspects of employment and occupation, and to provide information on the revision process of this Law. The Committee notes the Government's indication that the draft amended Law contains an article defining and explicitly prohibiting all forms of direct and indirect discrimination on the grounds set out in the Convention. The draft is still being reviewed and debated by the Federal National Council and the Government indicates that the Committee will be informed of any developments in this regard. According to the statistics provided by the Government, migrant workers constitute 85 per cent of the country's workforce. The Committee recalls the need to adopt a national equality policy to promote equality of opportunity and treatment and address discrimination in employment and occupation on all the grounds set out in the Convention covering all workers, both nationals and non-nationals. ***The Committee therefore urges the Government once again to take the necessary steps to ensure that the amendments to Federal Law No. 8 of 1980 on the regulation of labour relations include a specific provision defining and explicitly prohibiting both direct and indirect discrimination on all the grounds set out in Article 1(1)(a) of the Convention covering all workers, including non-nationals, and all aspects of employment and occupation. The Committee asks the Government to provide a copy of Federal Law No. 8 of 1980 on the regulation of labour relations, as amended.***

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

## United Kingdom

***Discrimination (Employment and Occupation) Convention, 1958 (No. 111)***  
***(ratification: 1999)***

The Committee notes with *regret* that the Government, in its report, has not replied to the issues raised in its previous observation.

*Articles 1 to 3 of the Convention. Northern Ireland.* The Committee notes, once again, that the Equality Act 2010 is not applicable in Northern Ireland and that teachers are excluded from the protection against discrimination on the grounds of religious belief. It notes with *interest* that the Racial Equality Strategy 2015–25 for Northern Ireland has been adopted. This document acknowledges that “a significant gap has opened up between the protections offered in Great Britain and [Northern Ireland]”. Among its proposed actions is the review of the Race Relations (Northern Ireland) Order 1997, and other relevant aspects of legislation. It also raises the question of whether ethnic monitoring should be introduced. The Committee notes that the Strategy commits, inter alia, to: giving stronger protection against racial harassment, including of employees by clients or customers; removing or modifying certain exceptions, including those relating to immigration and the employment of foreign nationals in the civil, diplomatic, armed or security and intelligence services and by certain public bodies; expanding the scope of positive action which employers and service providers can lawfully take in order to promote racial equality; increasing protection under the race equality legislation for individuals against victimization; introducing protection against multiple discrimination; strengthening tribunal powers to ensure effective remedies for complainants bringing racial discrimination complaints; and reviewing the Fair Employment and Treatment (NI) Order 1998, so as to require registered employers to collect monitoring information as regards nationality and ethnic origin of their employees and job applicants. ***The Committee once again asks the Government to take steps to abolish the exclusion of teachers from protection against discrimination on the ground of religious belief and to provide information on any development relating thereto. It also asks the Government to provide detailed information on the implementation of the Racial Equality Strategy 2015–25 for Northern Ireland.***

*Enforcement.* The Committee notes with *interest* that the Employment Tribunals and Employment Appeal Tribunal Fees Order 2013, which introduced a requirement to pay a fee to initiate proceedings in employment tribunals, has now been revoked and that the number of discrimination claims has begun to increase in consequence. It also notes again that section 66 of the Enterprise and Regulatory Reform Act 2013 (ERRA) has repealed section 138 of the Equality Act 2010, which allowed a potential victim of discrimination to submit a list of questions to the potential respondent in order to overcome the difficulties in identifying whether discrimination has occurred. In this regard, the Committee recalls, once again, that the burden of proof can be a significant obstacle to justice, particularly as much of the information needed in cases related to equality and non-discrimination is in the hands of the employer. The Committee further notes that section 2 of the Deregulation Act 2015 amended section 124 of the Equality Act 2010, removing the employment tribunals' power to make wider recommendations. ***The Committee asks the Government, once again, to provide information on the administrative and judicial decisions concerning the implementation of the Convention, as well as statistical information on trends in the number of discrimination claims before employment tribunals and their rates of success. It further asks***

*the Government to provide information on the impact of the removal of the employment tribunals' power to make wider recommendations.*

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, Angola, Antigua and Barbuda, Australia, Bangladesh, Barbados, Belize, Benin, Plurinational State of Bolivia, Cabo Verde, Cameroon, Congo, Croatia, Cuba, Cyprus, Djibouti, Dominica, El Salvador, Eritrea, Eswatini, Greece, Grenada, Guatemala, Guinea, Haiti, Honduras, Jamaica, Kiribati, Lebanon, Libya, Madagascar, Malawi, Malaysia, Malta, Mongolia, Nepal, Nicaragua, Nigeria, Panama, Papua New Guinea, Poland, Portugal, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Seychelles, Singapore, Slovakia, Slovenia, Sudan, Syrian Arab Republic, United Republic of Tanzania, Togo, Trinidad and Tobago, Turkey, Turkmenistan, United Arab Emirates, United Kingdom, Yemen*); **Convention No. 111** (*Afghanistan, Albania, Antigua and Barbuda, Australia, Bangladesh, Barbados, Belize, Benin, Plurinational State of Bolivia, Cabo Verde, Cameroon, Congo, Costa Rica, Croatia, Cuba, Cyprus, Djibouti, Dominica, El Salvador, Eritrea, Eswatini, Ghana, Greece, Grenada, Guatemala, Guinea, Haiti, Honduras, India, Jordan, Lebanon, Liberia, Libya, Madagascar, Malawi, Republic of Maldives, Malta, Mongolia, Nepal, Nicaragua, Nigeria, North Macedonia, Panama, Papua New Guinea, Poland, Portugal, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Seychelles, Slovakia, Slovenia, Sudan, Syrian Arab Republic, Tajikistan, United Republic of Tanzania, Togo, Trinidad and Tobago, Turkey, Turkmenistan, United Arab Emirates, United Kingdom, Yemen*); **Convention No. 156** (*Belgium, Belize, Croatia, El Salvador, Greece, Guinea, Portugal, San Marino, Slovenia, Yemen*).



## Tripartite consultation

### Algeria

#### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1993)**

The Committee takes note of the observations provided by the Trade Union Confederation of Productive Workers (COSYFOP) and received by the Office on 25 February 2019 concerning its failure to consult through tripartite meetings. ***It invites the Government to provide its comments in this regard.***

*Article 5 of the Convention. Effective tripartite consultations.* The Committee takes note of the information provided by the Government in its report of August 2019 in reply to the observations made in 2016, which underscores that in December 2017 it concluded a corporate partnership charter with the General Confederation of Algerian Workers (UGTA) and employers, with a view to creating synergies and giving fresh impetus to the economy, as well as consolidating closer collaboration between public and private sector enterprises. The Government adds that the Ministry of Labour, Employment and Social Security organized a meeting with the social partners that took place on Thursday, 27 June 2019. The Committee notes, according to the Government's indications, that this meeting concerned the promotion of social dialogue and was devoted to trade union activity in an era of change. However, once again, the Committee ***regrets*** the absence of information, requested in previous comments since 2003, on the holding of tripartite consultations on international labour standards as required under *Article 5* of the Convention. ***The Committee therefore once again requests the Government to provide detailed and precise information on the content and outcome of tripartite consultations held on all matters relating to international labour standards covered by the Convention and other activities of the ILO, particularly relating to the questionnaires on the Conference agenda items (Article 5(1)(a)); 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)).***

### Antigua and Barbuda

#### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2002)**

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

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

## Burundi

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)**

The Committee notes the observations made by the Trade Union Confederation of Burundi (COSYBU), received on 30 August 2018, and the Government's response thereto, received on 22 September 2018.

*Articles 2 and 5 of the Convention. Effective tripartite consultations.* In its 2017 comments, the Committee requested the Government to provide a copy of the legislative, administrative or any other provisions that give effect to the Convention, in particular those governing the composition and operation of the National Social Dialogue Committee (CNDS) and the provincial social dialogue committees (CPDS), as well as to supply information on the consultations held annually on the matters concerning international labour standards set out in *Article 5(1)* of the Convention. In its observations, the COSYBU indicates that the social partners have proposed the ratification of the *Employment Policy Convention*, 1964 (No. 122), and the *Labour Inspection (Agriculture) Convention*, 1969 (No. 129). The Committee notes that, according to the Government's response, both Conventions are currently under examination by the Ministry of Public Service, Labour and Social Security (MPTSS). The COSYBU also refers to a lack of prior consultation regarding certain issues that do not fall within the scope of the Convention; therefore the Committee will not address these. In its response to the observations, the Government indicates that it has always consulted employers' and workers' organizations and that there are regular meetings in which all discussions of relevance to the lives of workers take place in a framework of social dialogue. It is nevertheless noted that the Government has once again omitted to respond to the specific points previously raised by the Committee. *The Committee therefore once again reiterates its request that the Government provide copies of the legislative, administrative or other provisions giving effect to the Convention, and particularly those governing the composition and operation of the CNDS and the CPDS. It also once again requests the Government to provide detailed information on the frequency, content and outcome of the tripartite consultations held on each of the matters relating to international labour standards set out in Article 5(1) of the Convention.*

*Article 4. Administrative support.* In its previous comments, the Committee invited the Government to describe the manner in which administrative support is ensured for the consultation procedures required by the Convention, as well as to indicate whether arrangements have been made in accordance with *Article 4(2)* of the Convention, with regard to the financing of any necessary training of participants in the consultation procedures. The Committee notes with *regret* that the Government has not provided information on this point. *The Committee therefore once again requests the Government to describe the manner in which administrative support is provided for the consultation procedures envisaged by the Convention and to specify whether arrangements have been made or are envisaged, in accordance with Article 4(2), or the financing of any necessary training of participants in the consultation procedures.*

## Chile

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1992)**

The Committee notes the observations made by the Single Central Organization of Workers of Chile (CUT-Chile), received on 13 September 2018. *The Committee requests the Government to send its comments on the observations of CUT-Chile.*

*Articles 2 and 5 of the Convention. Effective tripartite consultations.* The Committee notes with *interest* the detailed information provided by the Government concerning the activities of the High Labour Council during the reporting period. In particular, the Government refers to the creation of a number of standing sectoral tripartite committees, such as the Thematic Committee on Disability and the Thematic Committee on the Implementation of the Maritime Labour Convention of 2006 (MLC, 2006). The Government indicates that the latter examined the national legislation in order to identify legislative adjustments needed to ensure compliance with the MLC, 2006. The Government again refers to the holding of tripartite consultations in 2014 and 2015 within the framework of the Advisory Council for Occupational Safety and Health, as well as various regional tripartite workshops for the development of the "National Occupational Safety and Health Policy (PNSST)", with a view to implementing the provisions of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). In this regard, the Government indicates that, contrary to what was stated by the Confederation of Production and Commerce (CPC) in its observations of 1 September 2016, employers' organizations were also invited to participate in these tripartite workshops (8 August and 22 July 2014, and 9 March 2015). In addition, in 2017–18, tripartite consultations and workshops were held, some of them with the collaboration of the ILO, in order to draw up the "National Programme on Occupational Safety and Health", which was finally adopted on 2 February 2018. The

Committee notes, however, the observations of CUT-Chile, in which it maintains that it did not receive copies of the report on ratified Conventions, submitted under article 22 of the ILO Constitution, sufficiently in advance to be able to comment on them. In this context, the Commission 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.” (see 2000 General Survey on tripartite consultations, paragraph 31). Finally, the Committee notes that the Government has not provided information on the tripartite consultations held on replies to questionnaires concerning International Labour Conference agenda items, the submission of instruments to the National Congress, the re-examination at appropriate intervals of unratified Conventions and of Recommendations, and proposals for the denunciation of ratified Conventions (*Article 5(1)(a), (b), (c) and (e)*). **The Committee therefore requests the Government to provide detailed up-to-date information indicating the specific content, frequency and outcome of the tripartite consultations held on all matters relating to international labour standards covered by Article 5(1) of the Convention. In the light of the observations of CUT-Chile, the Committee also requests the Government to provide information on consultations held with the social partners on how the functioning of the procedures required by the Convention could be improved, including the possibility of establishing a timetable for drafting reports sufficiently in advance (Article 5(1)(d)).**

## China

### Hong Kong Special Administrative Region

#### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (notification: 1997)***

*Articles 2(1) and 3(1) of the Convention. Effective tripartite consultations. Election of representatives of the social partners.* The Committee has been requesting for some years that the Government and the social partners promote and strengthen tripartism and social dialogue in order to facilitate the operation of the procedures governing effective tripartite consultations, including ensuring the meaningful participation of the Hong Kong Confederation of Trade Unions (HKCTU) in the consultation process. In its previous comments, the Committee expressed its concern that there is a risk that the HKCTU may have been excluded from meaningful participation in the consultative process among the most representative organizations of workers in the Labour Advisory Board (LAB), as a result of the electoral system in place in the country. In this context, the Committee recalls the previous observations of the HKCTU, which expressed concern in relation to the electoral system for representation on the LAB, the designated tripartite body for tripartite consultations for purposes of the Convention. In its observations, the HKCTU indicated that the composition of the LAB includes six workers’ representatives, five of whom are elected by registered trade unions, with a sixth representative appointed *ad personam* by the Government. It noted that, according to the current system, union votes are given equal weight regardless of size of membership, according to the principle of “one union, one vote”. Moreover, the electoral system allows voters to vote for a slate of five candidates, as a block, in one ballot. As a result, if the slate of five candidates receives more than half of the votes, the slate would win all five seats. In its observations, the HKCTU maintained that this electoral system was unjust and had effectively prevented it from being elected to the LAB, despite its status as the second largest trade union confederation. The Committee notes that, in its report, the Government reiterates its commitment to ensuring effective tripartite consultations through the operation of the LAB, as well as reiterating information previously provided concerning its electoral system. The Government reiterates that, in the Hong Kong Special Administrative Region (HKSAR), every workers’ union is free either to affiliate to one or more trade union groups or to remain unaffiliated. All registered workers’ unions are entitled to exercise their free choice in the election. The Government reiterates its commitment to continuing to ensure that every registered trade union, including those affiliated to the HKCTU, enjoys the same right as other registered trade unions to nominate candidates and to vote in the election of workers’ representatives of the LAB. Nevertheless, the Government considers that it would be improper and inappropriate if the system of electing workers’ representatives to the LAB were to be changed for the advantage of a particular organization. In this context, the Committee notes that the latest election of workers’ representatives in the LAB was held in November 2018. The Government indicates that 12 nominations were received, which included four incumbent workers’ representatives and that, after the trade unions cast their votes by secret ballot, three incumbent workers’ representatives and two other candidates were elected. The HKCTU was not elected to the LAB. The Committee recalls that the term “most representative organizations of employers and workers”, as provided for in Article 1 of the Convention, “does not mean only the largest organization of employers and the largest organization of workers”. In its 2000 General Survey on tripartite consultations, paragraph 34, the Committee refers to Advisory Opinion No. 1 of the Permanent Court of International Justice, dated 31 July 1922, in which the Court established that the use of the plural of the term “organizations” in Article 389 of the Treaty of Versailles referred to both organizations of employers and those of workers. Based on this opinion, the General Survey clarified that the term “most representative organizations of employers and workers” does not mean only the largest such organization. If in a particular country there are two or more organizations of employers or workers which represent a significant body of opinion, even though one of them may be larger than the others, they may all be considered to be “most representative organizations” for the purpose of the Convention. In

such cases, governments should endeavour to secure an agreement of all the organizations concerned in establishing the tripartite procedures (2000 General Survey on tripartite consultations, paragraph 34). ***The Committee therefore once again urges the Government to make every effort, together with the social partners, to ensure that tripartism and social dialogue are promoted and strengthened so as to facilitate the operation of procedures that ensure effective tripartite consultations that include the most representative organizations of employers and workers, as required under Articles 1 and 2 of the Convention, including by encouraging the Labour Advisory Board to amend its current electoral system. The Committee also once again requests the Government to report on progress made in ensuring the HKCTU's meaningful participation in the consultative process among the most representative organization of workers.***

*Article 5(1). Effective tripartite consultations.* The Government indicates that, during the reporting period, the LAB's Committee on the Implementation of International Labour Standards (CIILS) was consulted on all reports to be submitted under article 22 of the ILO Constitution. The procedures for preparing these reports and copies of the reports were communicated to all members of the LAB. In 2018, members of the CIILS met with officials from the Transport and Housing Bureau and the Marine Department of the HKSAR Government and were informed of progress with regard to the application of the Maritime Labour Convention, 2006 (MLC, 2006), in the HKSAR. The Committee notes the report of the LAB for 2017–18, communicated together with the Government's report. ***The Committee requests the Government to continue to provide detailed and up-to-date information on the content and outcome of the consultations held on all of the matters relative to international labour standards as required under Article 5(1)(a)–(e) of the Convention.***

## Costa Rica

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)***

The Committee notes the observations of the Confederation of Workers Rerum Novarum (CTRN), the Costa Rican Workers' Movement Confederation (CMTC) and Juanito Mora Porras Trade Union Federation (CSJMP), received on 24 September 2018. The Committee notes the Government's response to those observations, received on 1 November 2018. It also notes the Government's response to the observations of the CTRN of 2017, received on 3 May and 31 July 2018.

*Article 1 of the Convention. Representative organizations.* In its previous comments, the Committee noted the observations of the CTRN, in which it noted that the most representative workers' organizations, trade union confederations (third-level trade union organizations representing manual and intellectual workers from various sectors) were not represented in the High Labour Council. In this respect, the Committee requested the Government to provide information on the measures taken, particularly concerning the selection criteria, to ensure that the consultations required by the Convention are held with the "most representative organizations" of employers and workers, indicating the criteria used for determining representativeness. The Committee notes the Government's indication that, as a result of ILO technical assistance, on 27 March 2017, the Ministry of Labour and Social Security issued an advisory notice, urging "third-level employers' and workers' organizations, duly registered or recognized at the national level" to nominate and accredit with the Ministry representatives so that the members of both partners are appointed to the High Labour Council. The Committee notes with *interest* that, once that information was received by the social partners, Decision No. 12-2017-MTSS was published in *Official Gazette* No. 164 of 30 August 2017, appointing the representatives of employers' and workers' organizations to the High Labour Council. In its report, the Government provided a list of the selected employers' and workers' representatives, which includes members from trade union confederations.

*Article 5(1). Effective tripartite consultations.* In response to its previous comments, the Committee notes the detailed information provided by the Government on the consultations held with the social partners during the reporting period. The Committee observes that these consultations were held on replies to questionnaires concerning items on the agenda of the International Labour Conference, the submission of Conventions and Recommendations in accordance with article 19 of the ILO Constitution, the re-examination of unratified Conventions and Recommendations that have not yet been given effect, as well as proposals for the abrogation and withdrawal of Conventions and Recommendations. Concerning the consultations on reports on ratified Conventions, the Government indicates that, since 2013, a consultation process has been conducted over a longer period, to ensure that the social partners participate in the preparation of the reports. In particular, the Government indicates that, under the new process, initial drafts of reports are shared sufficiently in advance for the social partners to send their comments for subsequent inclusion in the final reports which are sent to the Office by 1 September. The Committee notes that, according to the reporting schedule, the preliminary reports on ratified Conventions were communicated to the social partners before 1 September (3 August 2016, 4 August 2017 and 27 July 2018), while the final draft reports, which include the observations made by the social partners during the process, were communicated later (31 August 2016, 12 September 2017 and 2 October 2018). The Committee also notes that the workers' organizations, the CTRN, CMTC and CSJMP, consider that the Government is still not providing the reports to the social partners. Finally, the Government refers to various tripartite consultation processes at the national level on matters including the development and implementation of a Comprehensive Strategy for the Transition to the Formal Economy in Costa Rica, in compliance with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204). ***The Committee requests the Government to continue providing detailed up-to-date information indicating the specific content, frequency and outcome of the tripartite consultations held on all matters relating to international labour standards covered by***

*Article 5(1) of the Convention. In light of the observations of the CTRN, CMTC and CSJMP, the Committee requests the Government to provide detailed information on the consultations held with the social partners on how the functioning of the procedures required by the Convention could be improved.*

## Côte d'Ivoire

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1987)**

*Article 5(1) of the Convention. Effective tripartite consultations.* The Government indicates that the social partners are consulted when issues covered by the Convention are raised with the Government by the Committee, as well as on the questionnaires concerning the agenda of the International Labour Conference. The Committee also notes the Government's report that the social partners have not raised any objections regarding the written consultation procedure that has been implemented. The Government indicates once again, in the same manner as its 2018 report, that discussions have taken place within the tripartite Labour Advisory Committee on a draft Order on the appointment of members to a tripartite advisory committee on international labour standards. The Government adds that this draft Order has now been sent to the office of the Minister of Labour to be signed and the Government could request the technical assistance of the Office for the practical implementation of this committee. **The Committee encourages the Government to request this assistance in the near future, taking into account the impending signature of the Order on the appointment of the members of the tripartite advisory committee on international labour standards. The Committee requests the Government to keep it informed of any progress in this regard. The Committee once again requests the Government to provide precise and detailed information on the content, frequency and outcome of the tripartite consultations held on all of the matters relating to international labour standards covered by the Convention, including questionnaires concerning items on the agenda of the Conference (Article 5(1)(a)), the proposals to be made in connection with the submission of instruments adopted by the Conference to the National Assembly (Article 5(1)(b)), the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given (Article 5(1)(c)), reports to be made on the application of ratified Conventions (Article 5(1)(d)), and proposals for the denunciation of ratified Conventions (Article 5(1)(e)).** Furthermore, the Committee notes the absence of any information on the meetings organized by the Ministry of Labour on matters relating to international labour standards, mentioned in the Government's previous report of September 2018. **The Committee therefore reiterates its request for information and asks the Government to indicate the content and the outcomes of the meetings organized by the Ministry of Labour on the matters relating to international labour standards covered by the Convention.**

## Djibouti

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (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 and 3(1) of the Convention. Participation of representative organizations.* The Government reiterates in its report that two legislative texts were drafted in 2013 in consultation with the social partners. These texts were referred to the National Council for Labour, Employment and Social Security (CONTESS) in 2014. The aim of the first text is to create an institutional framework for setting the issue of representativeness as provided by section 215 of the Labour Code, which establishes that "the representative nature of trade union organizations shall be determined by the outcome of workplace representation elections" and that "the ranking ... thus determined by the workplace elections shall be recorded in an order issued by the Minister in charge of labour". Nevertheless, the draft order is in preparation, hence the criteria for determining the representativeness of employers' and workers' organizations is still to be established. The aim of the second text is to reinforce the electoral procedures to be followed in occupational or national elections, with free and independent elections which are essential for ensuring the formation of legitimate workers and employers' organizations and also their representativeness. The Government points out that the two draft texts have not been approved by CONTESS, which assigned the task of examining the drafts to the standing committee but the latter did not adopt them. The Government indicates that it will keep the Office informed of any developments in the matter. **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), and expresses the firm hope that the Government will adopt the abovementioned draft texts as soon as possible so that objective and transparent criteria can be established for appointing workers' representatives to national and international tripartite bodies, including the International Labour Conference.**

*Article 4(2). Financing of training.* The Government indicates that a seminar on labour law was held for members of grassroots unions affiliated to the two most representative federations of workers' unions in Djibouti. The seminar took place from 28 to 31 August 2016 at the National Institute of Public Administration and was funded by the executive secretariat responsible for reform of the administration. In addition, the Operational Action Plan 2014–18, adopted under the national employment policy, includes a component of training on labour legislation for trade union representatives and employers. **The Committee requests the Government to continue providing information on appropriate arrangements made for the financing of any necessary training for participants in consultation procedures, as provided for by the Convention.**

*Article 5. Tripartite consultations required by the Convention. Frequency of tripartite consultations.* The Committee notes the detailed record of the meeting of CONTESS that took place on 27 and 28 November 2016, which the Government attached to its report. In this regard, it notes the agenda of the meeting, which included draft texts for the implementation of the Labour Code and also the discussion of unratified Conventions (Article 5(1)(c) of the Convention). In this regard, the Committee notes with

*interest* the ratification proposals adopted unanimously concerning the Maritime Labour Convention, 2006 (MLC, 2006), and the Protocol of 2014 to the Forced Labour Convention, 1930. *The Committee requests the Government to continue providing detailed information on the content and outcome of the tripartite consultations held on each of the matters referred to in Article 5(1) of the Convention, and in particular to continue to send copies of the records of CONTESS meetings.*

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

## Dominican Republic

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1999)***

*Article 5 of the Convention. Effective tripartite consultations.* In response to the Committee's previous comments, the Government has provided a copy of the "Operating Regulations for the Tripartite Round Table on issues relating to international labour standards", which were drafted with the technical assistance of the ILO; as well as copies of the meeting reports of the Tripartite Round Table. Under the provisions of section 2 of the Regulations, the functions of the Tripartite Round Table include: analysing and discussing compliance with ratified conventions; discussing and promoting compliance with recommendations issued by the ILO supervisory bodies; and analysing the content and possible impact of unratified Conventions and the Recommendations to which effect has not yet been given. Section 6 of the Regulations provides that the tripartite round table shall meet at least once every three months. The Committee notes with *interest* the Government's indication that the Tripartite Round Table began operating on 20 June 2018. The Committee also notes the notifications and reports of the seven working meetings that took place between 20 June 2018 and 16 July 2019, in which tripartite consultations were held on several active cases before the Committee on Freedom of Association. The Committee observes, however, that the Government has not provided information in its report on the effective tripartite consultations on the issues covered by Article 5(1) of the Convention: (a) government replies to questionnaires concerning items on the agenda of the International Labour Conference; (b) the submission of instruments to the National Congress; (c) the re-examination at appropriate intervals of unratified Conventions and of Recommendations; (d) the reports on ratified Conventions to be made to the Office under Article 22 of the ILO Constitution; and (e) proposals for the denunciation of ratified Conventions. *The Committee therefore requests the Government to provide detailed information on the content of the consultations held in the context of the Tripartite Round Table on issues relating to international labour standards regarding the application of the Convention, and their outcomes.*

## El Salvador

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1995)***

The Committee notes the observations of the National Business Association (ANEP), endorsed by the International Organisation of Employers (IOE), received on 7 September 2019. *The Committee requests the Government to provide its comments in this respect.*

### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)***

The Committee notes the discussion in the Conference Committee on the Application of Standards, in June 2019, on the application of the Convention, in which it noted with concern that no progress had been made in compliance with the Convention and that social dialogue continued to be dysfunctional in the country. The Conference Committee therefore once again called upon the Government to: (i) refrain from interfering with establishment of workers' and employers' organizations and to facilitate, in accordance with national law, the proper representation of legitimate employers' and workers' organizations by issuing appropriate credentials; (ii) develop, in consultation with the most representative employers' and workers' organizations, clear, objective, predictable and legally binding rules for the reactivation and full functioning of the Higher Labour Council (CST); (iii) reactivate, without delay, the CST and other tripartite entities, respecting the autonomy of the most representative organizations of workers and employers and through social dialogue in order to ensure its full functioning without any interference; and (iv) continue to avail itself without delay of ILO technical assistance. It also requested the Government to elaborate in consultation with the most representative employers' and workers' organizations and submit a detailed report to the Committee of Experts before its next session. Finally, the Committee urged the Government to accept a direct contacts mission of the ILO before the 109th Session of the International Labour Conference. In her intervention in the Conference, the Government representative welcomed the conclusions and indicated that her country was prepared to accept a direct contacts mission. In his intervention before the Conference Committee, the Government representative expressed his satisfaction with the conclusions of the Committee, and his willingness to accept a direct contacts mission.

*Articles 2 and 3(1) of the Convention. Adequate procedures. Election of the representatives of the social partners to the CST.* In its previous comments, the Committee expressed the firm hope that the Government would take the necessary measures to promote and reinforce tripartism and genuine social dialogue with a view to ensuring the operation of the CST. In this context, the Committee once again urged the Government to establish without delay, in prior consultation

with the social partners, clear and transparent rules for the nomination of workers' representatives to the CST that comply with the criterion of representativity. The Committee notes with *interest* the reactivation of the CST, following six years of inactivity. In this respect, ANEP indicates that the change in government offers a possible solution to the inactivity of the CST, as long as the decisions and recommendations of the supervisory bodies of the ILO are respected and a genuine and free designation of the representatives of the sectors is permitted. The Government indicates that, after the new government took office on 1 June 2019, it made a commitment to the importance of implementing an inclusive labour policy that has the support of employers and workers under equal conditions. The Government adds that, in accordance with the national legislation and the desire for change of the new Government, measures have been taken with a view to initiating constructive social dialogue and reactivating the CST. The Government reports that the active workers' and employers' organizations in the country were convened to put forward their proposals for representatives on the CST (eight titular members and eight substitute members for each of the partners), in accordance with the provisions of section 4(b) and (c) of the Rules of the CST. The Government indicates that both workers and employers made their proposals in due time and form. The President of the Republic issued the decision appointing the government representatives, in accordance with section 4 of the Rules of the CST. The Government adds that on 16 September 2019, once the government, worker and employer representatives had been appointed, the CST was inaugurated and held its first session. The Government provides in its report a list of the government, employer and worker representatives selected. The Government indicates that the first plenary session of the CST was also attended by numerous partners, including the Deputy Director of the ILO Subregional Office for Central America, Haiti and the Dominican Republic and various representatives of national institutions. During the session, the members of the CST unanimously approved a communication informing the national and international communities of the reactivation of the CST and requested the ILO to continue providing technical assistance. In the communication, the government, worker and employer representatives expressed their good will to reach agreements through social dialogue and to seek compromises and understandings with a view to contributing to the stability of the country. On 14 October 2019, the second session of the CST was held, during which unanimous approval was expressed for the preparation of a National Decent Work Policy with ILO technical assistance. The third session was held on 6 November 2019, in which the discussions, among other subjects, covered the methodological proposal and road map to be followed for the development of the National Strategy for the Generation of Decent Employment. ***The Committee requests the Government to continue providing detailed and updated information on the measures adopted to ensure the effective operation of the Higher Labour Council (CST). It also requests the Government to continue providing detailed information on the content and outcome of the tripartite consultations held within the framework of the CST.***

With regard to the allegations made by the National Business Association (ANEP) concerning Government interference in the selection of employer representatives on the General Electricity and Telecommunications Supervisory Body (SIGET), the Government refers to section 6(b) of the Act to establish the SIGET, which provides that the Board of Directors shall be composed, among others, of a director elected by private sector employer associations. The Government indicates that, under the terms of this provision, Economic Branch Executive Decision No. 1541, of 23 November 2017, was adopted appointing the titular and substitute directors of the Board of Directors of the SIGET representing private sector employer associations. The Government indicates that the Supreme Court of Justice has handed down a ruling setting aside the election of the employer representatives challenged by the ANEP. ***The Committee also requests the Government to provide a copy of the ruling of the Supreme Court of Justice definitively setting aside the election of the 2017 employer representatives on the SIGET. The Committee also requests the Government to provide information on the forms of elections of the representatives of employers and the date on which the elections were held.***

*Article 5(1). Effective tripartite consultations.* In its previous comments, the Committee noted the preparation of a draft "Protocol on the submission procedure", with the support of the cooperation provided by the ILO within the framework of the project of the Generalized System of Preferences (GSP) of the European Union. The Government indicated that the draft Protocol had been communicated to the competent bodies for consultation, which had required legal consultations with a view to identifying the commitments and implications of the submission process. The Government added that once the final draft of the Protocol had been adopted, it would be forwarded to the social partners for consultation. In this regard, the Committee requested the Government to provide information on the outcome of the tripartite consultations held and to provide a copy of the Protocol once it had been adopted. The Committee also requested the Government to provide updated information on the tripartite consultations held on all the matters relating to international labour standards covered by the Convention. The Committee notes the Government's indication that, in June 2019, prior to the 108th Session of the International Labour Conference, the Minister of Labour and Social Welfare met representatives of the unions and employers' organizations with a view to developing the necessary commitment and adopting the relevant political decisions to give effect to the ILO Conventions ratified by the country. However, the Committee notes that the Government has not provided information on the tripartite consultations held on the draft Protocol on the submission procedure, nor on the progress made with its adoption. Nor has the Government provided information in its report on the tripartite consultations held on the matters relating to international labour standards covered by the Convention. In this regard, the Committee recalls that, in accordance with *Article 5(1)* of the Convention, effective tripartite consultations shall be held on: (a) government replies to questionnaires concerning items on the agenda of the International Labour Conference; (b) the proposals to be made to the competent authority or authorities in connection with the submission of Conventions and Recommendations; (c) the re-examination at appropriate intervals of unratified Conventions and of Recommendations to which effect has not yet been given, to consider what measures might be taken to promote their implementation and

ratification, as appropriate; (d) questions arising out of reports to be made to the International Labour Office under article 22 of the Constitution of the International Labour Organization; and (e) proposals for the denunciation of ratified Conventions. ***The Committee therefore once again requests the Government to provide updated information on the outcome of the tripartite consultations held concerning the Protocol on the submission procedure, and to provide a copy of the Protocol when it has been adopted. It also once again requests the Government to provide detailed and updated information on the content and outcome of the tripartite consultations held on all the matters relating to international labour standards covered by Article 5(1)(a) to (e) of the Convention.***

***Technical assistance.*** In its previous comments, the Committee requested the Government to continue providing detailed information on the measures adopted within the framework of ILO technical assistance, and on their outcome. The Government has requested the continuation of technical assistance in such areas as technical support for the Technical Secretariat of the CST for the development of a social dialogue agenda and the respective work plan, and support for its implementation. Moreover, in accordance with the agreement reached during the session of the CST held on 14 October 2019, the Government requested ILO technical assistance for the tripartite preparation of the National Strategy for the Generation of Decent Employment, in accordance with the Employment Policy Convention, 1964 (No. 122). ***The Committee requests the Government to continue providing detailed and updated information on the measures adopted or envisaged to promote tripartism and social dialogue in the country within the context of ILO technical assistance, and on their outcome.***

## Eswatini

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1981)***

***Articles 2 and 3 of the Convention. Criteria for determining the most representative employers' and workers' organizations.*** The Committee recalls its 2017 observation, in which it noted the Government's indication that one of the key challenges affecting social dialogue in Eswatini was the absence of clear criteria for determining the most representative employers' and workers' organizations for purposes of the Convention. On the question of the establishment of clear and transparent criteria for determining the most representative organizations of employers and workers, the Government indicates that the definition of such criteria was left to the social partners. Therefore, it was agreed that the workers' federations (the Trade Union Congress of Swaziland (TUCOSWA) and the Federation of Swaziland Trade Unions (FESWATU)) and the employers' federations (Business Eswatini (BE) and the Federation of the Swazi Business Community (FESBC)), would hold their own bilateral discussions on this issue and inform the Government of the outcomes. Subsequently, the workers' federations signed a Memorandum of Understanding (MoU) on this issue on 21 February 2019. The employers' federations have not yet informed the Government of the outcome of their bilateral discussions in this regard. The Committee notes that the Government provides a copy of the MoU signed by the workers' federations. ***The Committee invites the Government to provide updated information in its next report on developments in relation to this issue.***

***Article 5(1). Effective tripartite consultations.*** The Committee welcomes the information provided by the Government relative to the two main tripartite social dialogue institutions established in Eswatini: the Labour Advisory Board (LAB) and the National Steering Committee on Social Dialogue (NSCSD). The Committee notes that, pursuant to section 24(1) of the Industrial Relations Act, No. 1 of 2000, LAB is mandated to, among other things, carry out tripartite consultations in respect of all of the matters relative to international labour standards enumerated under *Article 5(1)* of the Convention. With regard to the frequency of consultations, section 25(4) of the Industrial Relations Act provides that LAB shall convene four times a year, or upon presentation of a petition by any six members of LAB. The Government indicates, however, that over the years, some overlaps occurred with regard to the functions of LAB and the NSCSD. In particular, some of the issues that pertain to the mandate of LAB pursuant to Part III of the Industrial Relations Act, such as consultations on reports to be submitted to the ILO and matters relating to preparations for the annual International Labour Conference, were being tabled for discussion before the NSCSD instead of LAB. This situation gave rise to confusion regarding the functioning of these two national social dialogue institutions. This issue was raised by the social partners during a special social dialogue meeting held on 10 December 2018 in the Ministry of Labour and Social Security. At the initiative of the tripartite constituents, an Ad Hoc Tripartite Working Committee on Social Dialogue was created to study options for strengthening the national social dialogue structures and clarify the functions of the two tripartite bodies to avoid any similar confusion in future. The Government adds that, to improve the practical implementation of the Convention, the Ad Hoc Tripartite Working Committee will collaborate with the ILO-Pretoria office. The Committee notes the information provided by the Government regarding the activities of LAB and the NSCSD; however, it notes that the report contains no information on tripartite consultations relating to the matters required under *Article 5(1)* of the Convention. ***The Committee therefore reiterates its request that the Government provide detailed information on the content and outcome of the tripartite consultations held in Labour Advisory Board (LAB) on the matters relative to international labour standards covered by the Convention under Article 5(1)(a)–(e). It further requests the Government to communicate updated information in its next report on developments with regard to the clarification of the mandates and activities of LAB and***

*the National Steering Committee on Social Dialogue, as well as in respect to its efforts to strengthen and promote social dialogue more generally.*

*Article 5(1)(c) and (e). Prospects of ratification of unratified Conventions and proposals for the denunciation of ratified Conventions.* The Government refers to a communication of 9 April, 2019 from the Director of International Labour Standards, drawing its attention to the impact that the submission of four outdated Conventions, notably the Underground Work (Women) Convention, 1935 (No. 45), to the International Labour Conference for abrogation in 2024, will have on the Kingdom of Eswatini, considering the country's ratification status. The Government reports that this matter will be tabled before LAB in its first meeting following the appointment of a new Board. The Government further indicates that a Decent Work Country Programme (DWCP) is currently being drafted for the country, which will include proposals for the ratification of certain international labour standards. The Government refers to the possibility of requesting the technical assistance of the ILO in this regard. ***The Committee encourages the Government to avail itself of ILO assistance, as appropriate, and invites the Government to provide updated information on the content and outcome of tripartite consultations held regarding the possible ratification of up-to-date Conventions, as well as in relation to the possible denunciation of outdated Conventions. In particular, and recalling its 2017 observation, noting that the Labour Advisory Board had agreed on a time-bound work plan in 2016 to discuss the possible ratification of the Domestic Workers Convention, 2011 (No. 189), the Committee requests the Government to provide information on progress in respect of such discussions and their outcomes.***

## Grenada

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1994)**

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

*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.***

## Madagascar

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1997)**

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

*Articles 2 and 5 of the Convention. Effective tripartite consultations.* In its previous comments, the Committee requested the Government to provide detailed information on the subjects and outcome of the tripartite consultations held on each of the items set out in *Article 5(1)*. The Government indicates that it is making efforts to ensure compliance with the obligations deriving from the Conventions that it has ratified, including Convention No. 144, and recognizes that tripartite consultations on international labour standards were not undertaken effectively. However, it emphasizes that significant improvements have been implemented following a workshop to strengthen capacities on international labour standards and for the preparation of reports organized by the ILO on 22 and 23 October 2016. In 2016, the Government replied to the Committee's comments on Conventions Nos 29, 87, 98, 100, 105, 111 and 182. It adds that, although the social partners were consulted before the final replies were sent, they made no observations in that regard. In 2017, the Government replied to the Committee's comments concerning Conventions Nos 6, 26, 81, 87, 88, 95, 97, 98, 124, 129, 159 and 173. Following the tripartite consultations held, the observations made by the most representative workers' organizations were included in the final replies. With regard to the re-examination of unratified Conventions and of Recommendations to which effect has not yet been given, the Government indicates that tripartite consultations have been held on 11 instruments respecting working time (Conventions Nos 1, 30, 47, 106 and 175 and Recommendations Nos 13, 98, 103, 116, 178 and 182). The Government adds that it sent its replies to the most representative organizations of employers and workers, but that the Trade Union Confederation of Malagasy Revolutionary Workers (FISEMARE) was the only one to provide comments on this subject. It adds that, between 28 February and 1 March 2017, the Ministry of Labour organized, with ILO support, a tripartite workshop to validate the situation with regard to the Labour Relations (Public Service) Convention, 1978 (No. 151). This review was validated unanimously by the representatives of the three partners present. Furthermore, a steering committee to promote Convention No. 151 was established to follow the process of ratification and engage in advocacy with the competent authorities, including the Government and Parliament. The Government adds that it has responded to the abrogation of Conventions Nos 21, 50, 64, 65, 86 and 104 and to the withdrawal of Recommendations Nos 7, 61 and 62, included on the agenda of the 107th Session

of the International Labour Conference in 2018. It specifies that these responses were communicated to the most representative social partners, but that the latter made no observations on this subject. In its 2000 General Survey, *Tripartite Consultation International Labour Standards*, paragraph 71, the Committee recalls that *Paragraph 2(3)* of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), specifies that consultations may only be undertaken through written communications, “where those involved in the consultative procedures are agreed that such communications are appropriate and sufficient”. The Committee notes with *interest* that the Government, with ILO support, organized a workshop on 12, 13 and 14 September 2017 to validate the comparative study of the legislation in force and the provisions of the Maritime Labour Convention, 2006 (MLC, 2006), and the Work in Fishing Convention, 2007 (No. 188), with a view to their ratification. It adds that two roadmaps on the ratification of the MLC, 2006, and Convention No. 188 were unanimously approved by the tripartite partners present. ***The Committee requests the Government to continue providing updated information on the manner in which it ensures effective tripartite consultations, as well as on the content and outcome of the tripartite consultations held on each of the issues covered by Article 5(1). It also requests the Government to keep it informed of any developments relating to the ratification of Conventions Nos 151, 188 and the MLC, 2006.***

*Article 3. Choice of the representatives of employers and workers by their respective organizations.* The Committee notes that the implementation of Decree No. 2011-490 on trade union organizations and representativity implies for the tripartite partners the implementation of various types of action, including the holding of elections for staff delegates at the enterprise level within the territory of Madagascar by the Ministry of Labour, the convening of the social partners for an indication of the provisional results, and the consolidation by ministerial order of the definitive results for national and regional representation. The Government indicates that, in accordance with this process, the elections of staff representatives were launched in 2014 throughout Madagascar. It adds that Order No. 34-2015 to determine trade union representativity for 2014 and 2015 was adopted and was issued in February 2014. However, the Order has been contested by certain workers’ organizations, including the General Confederation of Malagasy Trade Unions (FISEMA), FISEMARE and the Revolutionary Malagasy Union (SEREMA), challenging the outcome of the ballot, which placed the Christian Confederation of Malagasy Trade Unions (SEKRIMA) first among the most representative unions at the national level. In March 2015, these unions lodged an appeal for the result to be set aside. The Government explains that, as the appeal was suspensive in its effect, the application of the Order was suspended until the court issued its ruling rejecting the appeal in 2017. Moreover, as the establishment of the various labour-related bodies is conditional upon representativity, as they involve tripartite representation, such as in the case of inter-enterprise medical services management councils and the executive council of the National Social Insurance Fund (CNAPS), the tripartite actors concerned agreed to adopt an alternative solution. In this context, the Government indicates that all the representatives of the various organizations appointed to the different social dialogue structures in existence, and the labour-related bodies referred to above, were subject to tacit renewal of their mandates. ***The Committee requests the Government to make every effort, in consultation with the social partners, to ensure that tripartism and social dialogue are promoted so as to facilitate procedures that guarantee effective tripartite consultations (Articles 2 and 3). In this respect, it requests the Government to provide updated information on any developments relating to the choice of employers’ and workers’ representatives for the purposes of the procedures covered by the Convention, including the dates and organization of their elections. The Committee also requests the Government to provide a copy of the Order that is in force with its next report.***

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

## Malawi

### ***Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1986)***

*Article 2(1) and Article 5(1) of the Convention. Effective tripartite consultations required by the Convention.*

*Reports on consultations.* In its previous comments, the Committee requested the Government to submit a report containing detailed information on the tripartite consultations held on all matters covered by *Article 5(1)* of the Convention, and to include information on the nature of the reports and recommendations issued as a result of these consultations. The Government reports that tripartite consultations were held in 2017 with the social partners, to familiarize stakeholders on the provisions of the Occupational Safety and Health Convention, 1981 (No. 155), the Safety and Health in Agriculture Convention, 2001 (No. 184), and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). The Government adds that a senior ILO occupational safety and health (OSH) specialist provided technical assistance during the consultations regarding the content of the Conventions discussed. The Committee notes the Government’s indication that the consultations resulted, inter alia, in a strong recommendation that the Government fast-track the ratification of all three Conventions. The Committee also notes the response of the Government to its previous observation requesting information on tripartite consultations regarding un-ratified instruments to promote, as appropriate, their implementation or ratification, specifically the Indigenous and Tribal Peoples Convention, 1989 (No. 169), and the Safety and Health in Mines Convention, 1995 (No. 176), as well as consultations regarding the denunciation of outdated Conventions. While the Government does not indicate whether tripartite consultations took place in this regard, it expresses the view that Convention No. 169 is not relevant to the Malawi context. ***The Committee once again refers to its previous observations and requests the Government to provide detailed updated information concerning the procedures in place to ensure effective tripartite consultations as required under Article 2 of the Convention. The Committee further requests 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. The Committee invites the Government to supply copies of reports produced on the working of the procedures provided for in the Convention (Article 6).***

## Serbia

### **Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 2005)**

*Articles 2 and 5 of the Convention. Effective tripartite consultations.* The Committee notes that, following the recommendations and the report of the Conference Committee at its 107th Session in June 2018, a tripartite workshop on the application of Convention No. 144, for which the ILO had provided technical assistance, was held on 25 January 2019. The workshop was attended by the representatives of trade unions and employers' associations and the Secretary of the Social and Economic Council of the Republic of Serbia (SEC). It was agreed that all issues concerning the preparation of the delegation of Serbia for its participation at the sessions of the ILO, except those dealt with in writing, will be dealt with through the consultative process of the SEC and are to be discussed a minimum of two times a year (before and after the Conference). In this context, the Government indicates that the composition of the delegation and the platform for its participation will be discussed verbatim as a separate item to be placed on the agenda of the SEC. It also indicates that the verbatim consultations held during the sessions of the SEC will be held in connection with all other matters of relevance to cooperation with the ILO, including: replies to questionnaires; recommendations submitted to the competent authorities with regard to the submission of ILO Conventions and Recommendations in compliance with article 19 of the ILO Constitution; re-examination and review at regular intervals of unratified Conventions and Recommendations not yet given effect to examine the measures to be taken, if any; issues that have arisen from the obligation of submission of national reports in compliance with article 22 of the ILO Constitution; and those concerning the proposed abrogation of ratified Conventions. The Government also reports that, on 25 September 2018, the SEC organized an Information Day at the National Assembly where, discussions focused on, inter alia, strengthening social dialogue and the capacities of the SEC and the social partners. **The Committee requests the Government to continue its efforts to take effective and time-bound measures to ensure effective tripartite consultations in conformity with the provisions of the Convention, and to report on the nature, content and frequency of consultations in relation to the matters within the scope of Article 5(1)(a)–(e) of the Convention.**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 144** (Afghanistan, Albania, Argentina, Bahamas, Barbados, Belarus, Belize, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Central African Republic, Comoros, Congo, Cyprus, Dominica, Egypt, Estonia, France: French Polynesia, France: New Caledonia, Gabon, Ghana, Greece, Guyana, Hungary, India, Jamaica, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lesotho, Liberia, Malaysia, Republic of Moldova, Mongolia, Mozambique, Nepal, Netherlands: Aruba, Saint Vincent and the Grenadines, Syrian Arab Republic, Trinidad and Tobago).



## Labour administration and inspection

### General observation

#### **Convention (No. 81) Labour Inspection Convention, 1947**

#### **Convention (No. 129) Labour Inspection (Agriculture) Convention, 1969**

The Committee recalls that the 2019 ILO Centenary Declaration on the Future of Work underscores the importance of strengthening labour administration and inspection as a key aspect for further developing the ILO's human-centred approach to the future of work, an approach that places workers' rights and the needs, aspirations and rights of all people at the heart of economic, social and environmental policies.

The Committee reaffirms that labour inspection is a vital public function. It is at the core of promoting and enforcing decent working conditions and respect for fundamental principles and rights at work. Effective labour inspection systems are also integral to achieving the 2030 Sustainable Development Goals in the coming years, thereby contributing significantly to social cohesion. Labour inspectorates are instrumental in the protection of labour rights and the promotion of safe and secure working environments for all workers,<sup>1</sup> and they play a major role with respect to the rule of law and ensuring equal access to justice for all.<sup>2</sup>

The Centenary Declaration highlights the changing patterns in the world of work. The Committee notes that many countries have implemented or are currently planning labour inspection reforms, in order to modernize the inspectorate and to address these transformative changes. Such reforms may take place within wider labour administration reorganizations or general inspection reforms that cover all state monitoring bodies; they may also be aimed at optimizing resources or minimizing the risk of corruption.

The Committee emphasizes that a modern, well-designed and risk-based approach to labour inspection planning is perfectly compatible with the Labour Inspection Convention, 1947 (No. 81), as well as the Labour Inspection (Agriculture) Convention, 1969 (No. 129). Indeed, the Committee observes that compliance with both labour inspection Conventions is an important prerequisite for a modernization initiative to be effective. Accordingly, it urges governments to ensure that any reform measures be implemented in a manner that is in full conformity with ratified international labour Conventions.

The use of data-driven strategic planning as a basis for proactive and targeted interventions, coupled with the regular evaluation of institutional performance and impact, are important methods for achieving effective enforcement and sustained compliance. Labour inspectorates across all regions are making innovative use of online, mobile and networking approaches to expand their reach and accessibility. Information technology tools have also enabled significant improvements with respect to the capacity of inspectorates to collect, analyse and publish data. Further, modern inspectorates play a key role in addressing new and emerging risks in the workplace, through the promotion of a culture of prevention. Collaboration between inspectors and duly qualified technical experts and specialists<sup>3</sup> is especially important to ensure workers' protection against occupational hazards.

The Committee recalls that governments may avail themselves of the technical assistance of the ILO in this regard. The Office can assist member States in various ways: through assessing the legal and institutional framework of labour inspectorates and recommending how to improve performance; by supporting the development of strategic plans for achieving compliance; by suggesting better uses of technology; by assisting in the domain of data collection and statistics; and by building the capacities of labour inspection staff.

However, along with these positive developments and the potential for further progress, the Committee expresses **concern** that a number of member States that have ratified one or both labour inspection Conventions have carried out reforms that substantially undermine the inherent functioning of labour inspection systems, contrary to the provisions of those Conventions.<sup>4</sup> The Committee has been made aware of these reforms in the course of its examination of reports from governments and observations from workers' and employers' organizations.<sup>5</sup> The reforms often arise in the framework of broader revisions of state inspection approaches that cover many inspection bodies. With respect to labour inspection, the reforms include:

- moratoria on labour inspections,<sup>6</sup> which the Committee has repeatedly emphasized constitutes a serious violation of Conventions Nos 81 and 129;

<sup>1</sup> Goal 8, target 8.8.

<sup>2</sup> Goal 16, target 16.3.

<sup>3</sup> As required by Article 9 of Convention No. 81 and Article 11 of Convention No. 129.

<sup>4</sup> The Committee observes that this trend has been most notable in Eastern Europe and Central Asia, but there are examples in other regions as well.

<sup>5</sup> Under article 22 and article 23 of the ILO Constitution, respectively.

<sup>6</sup> Suspension of the undertaking of labour inspection visits for a period of time.

- requiring by law prior notification to employers of an inspection visit or significant restrictions on the undertaking of unannounced inspections (contrary to Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129, concerning empowering labour inspectors with proper credentials to enter freely and without previous notice at any hour of the day or night any workplace liable to inspection);
- establishing a requirement to obtain consent for inspections from other governmental agencies (contrary to Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129);
- limiting the lawful scope of inspections to certain subjects or to pre-established checklists and establishing strict limits for the maximum duration of inspections (which raise issues with respect to Article 16 of Convention No. 81 and Article 21 of Convention No. 129 concerning the inspection of workplaces as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions);
- significantly reducing the number of labour inspections undertaken, limiting by law the possible frequency of inspections, or exempting a significant portion of enterprises from inspections, such as new enterprises (all of which raise issues of conformity with Article 16 of Convention No. 81 and Article 21 of Convention No. 129);
- substantially lowering the number of labour inspectors and the resources allocated to them, making it difficult or impossible to secure the effective discharge of duties of the inspectorate (which raises issues of conformity with Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129);
- assigning additional duties to labour inspectors that interfere with the effective discharge of their primary duties or prejudice their authority and impartiality as inspectors (contrary to Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129); and
- weakening the role and coherence of the central authority by processes of decentralization and distribution of the labour inspection services and functions among different authorities (which raises issues of conformity with Article 4 of Convention No. 81 and Article 7 of Convention No. 129).

The Committee recalls that it has systematically urged governments to remove these restrictions, with a view to achieving conformity with Convention No. 81 (and Convention No. 129, where ratified). It also notes that the Office has provided technical assistance to several countries in this regard.

The Committee *regrets* that many of the limitations on labour inspection listed above were enacted following policy advice from international institutions that was aimed at improving the national investment climate, as part of reforms covering all state inspections. In this regard, it recalls the possibility of excluding the labour inspectorate from broad state inspection reform, recognizing the importance of labour inspection systems for effective governance and their role in redressing imperfections in labour market imbalances. Further, the Committee calls upon governments to ensure that the implementation of policy and legislative advice received is entirely consistent with the application of ratified international labour Conventions.

The Centenary Declaration urges the ILO to intensify its engagement and cooperation within the multilateral system with a view to strengthening policy coherence. The Declaration emphasizes the strong, complex and crucial links between social, trade, financial, economic and environmental policies, and states that the ILO must take an important role in the multilateral system by reinforcing its cooperation and developing institutional arrangements with other organizations in pursuit of its human-centred approach to the future of work.

In this framework of multilateralism, the Committee encourages the Office to deepen its dialogue with the relevant international organizations, in particular international and regional financial institutions, in order to ensure that all advice related to inspection reform is in conformity with Conventions Nos 81 and 129. The Committee recalls the ILO's ongoing collaboration with international financial institutions on programmes aimed at strengthening compliance with ILO core labour standards and national legislation. Given this collaboration and commitment, the Committee expresses the firm hope that intensified engagement by the ILO will contribute to further policy coherence on the importance of effective labour inspection systems.

## Albania

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)***

### ***Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2007)***

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 the ratified Conventions on labour inspection, the Committee considers it appropriate to examine Convention No. 81 and Convention No. 129 together.

*Articles 3(1)(a) and (b) and (2), and 14 of Convention No. 81 and Articles 6(1)(a) and (b) and (3), and 19 of Convention No. 129. Labour inspection activities in the area of occupational safety and health (OSH) in agriculture.* The Committee notes the Government's indication, in reply to its previous request, that the number of inspections in the agricultural sector has remained

at 0.8 per cent of total inspections. The Committee notes in this regard that, as indicated in the Government's Occupational Safety and Health Policy Document and Action Plan (2016–20), nearly half of the workforce in Albania is employed in the agricultural sector. The Committee also notes the Government's indication that no training has yet taken place for inspectors on agriculture-related subjects. **The Committee once again requests the Government to provide information on the measures taken to secure the enforcement of laws and regulations in agriculture, including with respect to OSH, and to continue to provide information on the number of inspections carried out in that sector. The Committee requests the Government to report on training for labour inspectors on agriculture-related subjects, specifying the subjects, duration, participation and outcomes.**

*Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Conditions of service.* The Committee previously noted the information in the 2009 ILO audit report on labour inspection services that the remuneration for labour inspectors was not attractive and that there was no real human resources strategy for recruitment and career development. The Committee notes the copy of Decision No. 726 of 21 December 2000 on salaries of employees of budgetary institutions provided with the Government's report, which breaks down the monthly salaries of civil servants. **The Committee requests the Government to indicate whether any measures have been adopted since the 2009 ILO audit report to improve the remuneration scale and career prospects of labour inspectors in relation to other comparable categories of public officials, and requests the Government for clarification regarding the actual remuneration scale and career prospects of labour inspectors in relation to other comparable categories of government employees exercising similar functions, such as tax inspectors or police officers.**

*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 the Government's indication that 167 labour inspectors were not sufficient to fully perform the inspection tasks required by law. The Committee notes the Government's indication in its report that the number of labour inspectors employed by the state labour inspectorate and social services (SLISS) is currently 155 employees, with 37 at the central level and 118 employees at the regional level. The Committee further notes that the Government reports that the regional offices still do not have sufficient office equipment, that the SLISS has only eight vehicles (for 12 regions) and that funds are insufficient for the reimbursement of labour inspectors performing their duties. It notes in this respect the Government's indication in its report submitted under the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), that the main problem for labour inspection is the lack of financial resources, which limits the ability of inspectors to travel to entities that should be inspected. **The Committee requests 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, given the decrease in the number of labour inspection staff and the continuing inadequacy of equipment and vehicles. The Committee also requests the Government to continue to provide information on the staffing and material means of the SLISS in performing inspections in agriculture, including transportation and local offices.**

*Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129. Right of inspectors to free entry of workplaces.* The Committee notes the Government's indication that 90 per cent of inspections are conducted pursuant to a predetermined plan that is developed in cooperation with labour inspectors using the e-inspection portal, with the approval of the regional directorate of inspection. While the remaining 10 per cent of inspections are unscheduled and/or emergency inspections, which can be undertaken without authorization or notification, the Government reports that an authorizing officer shall issue an authorization within 24 hours. The Government indicates that labour inspectors are provided with cards so that they can identify themselves when entering workplaces and conducting inspection operations. The Committee observes that where only 10 per cent of all inspections are unscheduled and/or responding to emergency circumstances, this may undermine the effectiveness of predetermined scheduled inspections because problems may be concealed and thus remain undetected. **The Committee requests the Government to indicate the procedure by which the authorizing officer must issue an authorization, and the consequences for the inspection if the authorization is not issued within the 24-hour time frame provided. In addition, the Committee requests the Government to indicate how often the 10 per cent of unscheduled and/or emergency inspections actually take place within 24 hours, how often they take place without advance notification, and how often they result in findings of violations or unsafe conditions.**

*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 noted, in its previous comments, that the number of fines imposed was relatively low (in 2011, 381 imposed in relation to over 14,000 inspections). In this respect, the Committee notes the Government's indication that Law No. 10279 of 2010 "on Administrative Offences" is used in conjunction with section 48 of Law No. 10433 "on Inspection" to provide appropriate administrative penalties where an infringement is detected during the inspection process. The Government indicates that the law aims to provide fair and equal treatment and non-discriminatory rules to be applied by inspectors. The Government emphasizes that the main purpose of the policy pursued by the SLISS is to reduce the number of fines in a rational way, by focusing on prevention and awareness raising concerning safety and health at work rather than penalties. In addition, while the Committee noted in 2013 that it was not required for the labour inspectorate to pay an advance for the enforcement of fines issued, the Committee notes that the Government indicates that the SLISS repaid penalties in the amount of 11,487,713 Albanian lek (ALL) (approximately US\$101,780) in 2014 and ALL4,070,255 (approximately US\$46,060) from January to May 2015. **Noting that the policy pursued by the SLISS intends to reduce the number of fines in a rational way, the Committee once again requests the Government to provide information on the number and nature of fines imposed by virtue of labour inspections, the number of judicial executions launched for the enforcement of orders, as well as the number of accidents reported and violations detected during the reporting period. In addition, the Committee further requests information regarding the repayment of penalties by the SLISS, indicating the conditions for such repayment and the total amount of advance payments not reimbursed to the labour inspectorate.**

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.**

## Bangladesh

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1972)**

#### **Follow-up to the decisions of the Governing Body (complaints made under article 26 of the Constitution of the ILO)**

The Committee notes that a complaint under article 26 of the ILO Constitution alleging non-compliance by Bangladesh with this Convention, as well 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), submitted by several Workers' delegates to the 2019 International Labour Conference, was declared receivable in November 2019 and is pending before the Governing Body.

*Articles 2, 4, 12 and 23 of the Convention. Labour inspection in export processing zones (EPZs) and special economic zones (SEZs).* In its previous comments, the Committee requested that EPZs and SEZs be brought under the purview of the labour inspectorate.

The Committee notes the Government's reference in its report to the EPZ Labour Act, which was adopted in February 2019. It welcomes that Chapter XIV of that Act now provides for labour inspection by labour inspectors appointed under the Bangladesh Labour Act (BLA) and that the Government indicates that labour inspectors of the Directorate of Inspection for Factories and Establishments (DIFE) have already undertaken labour inspections in five factories in EPZs. The Committee also notes the Government's indications that consultations are ongoing with workers, investors and relevant stakeholders to see how labour inspections undertaken by the DIFE can best be integrated with the existing supervision exercised by the Bangladesh Export Processing –Zones Authority (BEPZA). The Committee notes, in particular, that section 168 of the EPZ Labour Act allows the Chief Inspector and other Inspectors appointed under the BLA to undertake inspections but observes that an approval of the Executive Chairman of the BEPZA is required. In this respect, the Committee recalls that, pursuant to section 4(3) of the Bangladesh Export Processing Zones Authority Act, the objectives of the BEPZA include encouraging and promoting foreign investment in the zone. The Committee recalls that *Article 12* of the Convention 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. **While the Committee welcomes the progress made in opening EPZs and SEZs for labour inspections by the DIFE, it requests the Government to provide information on the outcome of the abovementioned discussions and consultations. Further, the Committee requests the Government to take the necessary measures to ensure that labour inspectors are empowered to enter freely and without previous notice establishments in EPZs and SEZs, without any restrictions. In this respect, the Committee requests the Government to provide information on the nature and the modalities of the approval required from the BEPZA for the undertaking of inspections, including if a separate request is required before each inspection, and if so, the number of requests made, the number approved, the time elapsed between each request and approval, and the reasons given for each failure to approve. Lastly, it requests the Government to provide statistical information on the labour inspections undertaken in EPZs and SEZs, disaggregated into inspections by the DIFE and inspections under the BEPZA, including the overall number of inspections undertaken, the violations detected and the measures taken as a result.**

*Article 6. Status and conditions of service of labour inspectors.* In its previous comments, the Committee noted that retention of labour inspectors was a problem and that a number of recently recruited labour inspectors had left the DIFE after having been trained, to take up work with other government services. The Committee noted that a study on the reasons for the high attrition rate of the DIFE recommended, among other things, the creation of more senior positions and the further development of staff competencies. In this respect, the Committee notes the Government's indication that following the recommendations in that study, a new proposal providing for the recruitment of a significant number of labour inspectors was made, including the creation of senior positions. The Committee notes that the amendments to the BLA, adopted in November 2018, provide for the creation of an additional labour inspection position, bringing the number of career positions with the labour inspectorate to six (previously five). **The Committee requests the Government to continue to provide information on the measures taken to implement the recommendations in the study on the reasons for the high attrition rate, and to provide information on the implementation of the new career structure adopted in 2018, including the number of appointments made at each position, as well as information on the attrition rate among inspectors at different professional levels.**

*Articles 7, 10, 11 and 16. Human resources and material resources of the labour inspectorate. Frequency and thoroughness of labour inspections.* In its past comments, the Committee noted that 575 labour inspection positions had been approved in 2014 but not filled, and that the number of labour inspectors decreased from 345 to 320 between 2017 and 2018.

The Committee notes with *concern*, from the statistics provided by the Government responding to the Committee's request that the number of labour inspectors further decreased to 308 labour inspectors by August 2019. On the other hand, it also notes the reference of the Government to a proposal, following the recommendations of a recent study, to increase the number of labour inspectors working at the DIFE to 1,458, which will require the approval of the Ministry of Public Administration and the Ministry of Finance. The Committee also notes the up-to-date information provided, on the number of labour inspections carried out, the training provided to labour inspectors, and that the Government reiterates the

information from July 2017 with respect to the equipment and transport facilities available to the DIFE. Finally, it welcomes the information concerning the increase in the budget of the DIFE from Bangladesh taka (BDT) 351.20 million to BDT418.5 million. **Welcoming the proposed increase in the number of labour inspectors, the Committee requests the Government to continue to make every effort to recruit an adequate number of qualified labour inspectors, including by taking measures to fill all of the 575 labour inspection posts already approved in 2014, and to continue to provide information on the proposal to further increase the number of labour inspectors. It requests the Government to strengthen its efforts to ensure that workplaces are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, and to continue to provide information on the current number of labour inspectors working at the DIFE, as well as on the number of labour inspection visits carried out, and to disaggregate this information by sector. Noting the information provided by the Government in this respect, the Committee also requests the Government to continue to provide up-to-date information on the budget, equipment and transport facilities available to the DIFE, and the training provided to labour inspectors.**

*Articles 12(1), 15(c) and 16. Inspections without previous notice.* Duty of confidentiality in relation to complaints. In its previous comments, the Committee noted an increase in the number of inspections that were unannounced (random or complaints-driven), from 2.5 per cent of all inspections in 2014 to 20 per cent in 2016–17, compared with those undertaken with prior notice (regular inspections).

The Committee notes the indication of the Government that the BLA permits labour inspectors to deal with complaints confidentially. The Committee also notes with **concern** that the Government indicates that inspections in factories are normally announced, while inspections in shops and establishments are normally unannounced, and it notes the information provided concerning the number of inspections in each. The Committee recalls the importance of undertaking a sufficient number of inspections that are unannounced, including at factories as well as shops and establishments, to ensure that when inspections are conducted as a result of a complaint without prior notice, the fact of the complaint is kept confidential. **The Committee requests the Government to provide further information on the specific measures taken or envisaged to ensure that labour inspectors treat as absolutely confidential the source of any complaint and give no intimation to the employer that an inspection visit was made in consequence of the receipt of such a complaint, including measures taken with respect to inspections of factories. It also requests the Government to provide more specific information on the number of inspection visits that were unannounced and those that were undertaken with prior notice, disaggregated by RMG factory, shop, establishment, and other factories, as well as statistical information on the outcome of those visits disaggregated in the same manner.**

*Articles 17 and 18. Legal proceedings, effective enforcement and sufficiently dissuasive penalties.* The Committee notes the information provided by the Government, in reply to the Committee's request for statistics on enforcement in relation to violations of the legal provisions. In 2018, 42,866 labour inspections were undertaken and 116,618 violations detected (compared with 40,386 inspections and 100,336 violations in 2017), 1,531 cases submitted to the labour courts (1,583 in 2017) and 798 resolved cases (574 in 2017). The Committee notes that the outcome of cases referred to the courts were limited to the imposition of fines, and that the amount of penalties imposed in 2018 was BDT3.55 million (approximately US\$41,268, an average of approximately US\$52 per resolution). The Committee also notes that the Government reiterates that there is one legal officer at the DIFE responsible for the follow-up of labour law violations detected by labour inspectors, that a legal advisory firm is affiliated with the DIFE, and that there is a plan to establish a legal unit at the DIFE. The Government indicates that this unit is proposed to be composed of 17 legal officers. The Committee notes with **regret** that the Government does not provide a reply in response to the Committee's request for information on any measures taken or envisaged to ensure that penalties for labour law violations are sufficiently dissuasive, including penalties other than fines. **The Committee, once again, requests the Government to provide information on any measures introduced or envisaged to ensure that penalties for labour law violations are sufficiently dissuasive and to improve the proceedings for the effective enforcement of the legal provisions. In this respect, it also requests the Government to provide information on the progress made to establish a legal unit at the DIFE, including on the number of staff and their functions. Lastly, it requests the Government to continue to provide information on the specific outcome of the cases referred to the labour courts (such as the imposition of fines and also sentences of imprisonment) and to specify the legal provisions to which they relate.**

The Committee previously noted that labour officials of the Department of Labour (DOL) address cases of alleged violations of freedom of association through conciliation and requested information on the measures taken to secure the enforcement of legal provisions related to freedom of association. In this respect, the Committee notes the Governments' indication that pursuant to the BLA, the DOL does not intervene in the conciliation concerning violations of freedom of association. The Committee takes due note of this information and refers to its comments under Conventions Nos. 87 and 98.

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 2020.]**

## Congo

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1999)**

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 2020, 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.

*Absence of practical information to enable the Committee to assess the operation of the labour inspectorate in relation to the provisions of the Convention and relevant national laws.* The Committee notes the updated information regarding the number and geographical distribution by category of labour inspection staff. It notes, by comparison with the data given in the report received from the Government in 2008, a substantial reduction in labour inspection staff, in particular labour inspectors (from 75 to 55) and principal controllers (from 96 to 72). The Committee recalls that, according to *Article 10*, in order to secure the effective discharge of the duties of the labour inspectorate, the number of labour inspectors must be determined with due regard to the importance of the duties which inspectors have to perform, in particular the number, nature, size and situation of the workplaces liable to inspection; the number and classes of workers employed in such workplaces; the number and complexity of the legal provisions to be enforced; the material means placed at the disposal of the inspectors; and the practical conditions under which visits of inspection must be carried out.

While the laws and regulations concerning labour inspection and its mandate and prerogatives are available, it must be noted that there are no numerical data on other areas defined in *Article 10* and, as the Government admits, there are no specific measures for giving effect to the provisions of *Article 11* concerning the material conditions of work of labour inspectors, who do not have access to the transport facilities required for them to carry out their duties. The Committee notes, on the other hand, that according to the Government, inspectors' travel and related costs are reimbursed by the competent authority on presentation of invoices, which was not always the case, according to the report received in 2008.

*The Committee once again requests the Government to provide in its next report all the available information needed to assess the application of the Convention in law and in practice. This information should cover, among other matters: (i) the up-to-date geographical distribution of public officials responsible for labour inspection as defined in Article 3(1) of the Convention; (ii) the geographical distribution of workplaces liable to inspection or, at the least, those for which the Government considers that the conditions of work require specific protection from the labour inspection services; (iii) the frequency, content and number of participants at the training courses provided for labour inspectors during their career; (iv) the level of remuneration and conditions for career advancement in relation to other public officials with comparable responsibilities; (v) the proportion of the national budget allocated to the public labour inspection services; (vi) a description of the cases in which inspectors visit enterprises, the procedure followed and the transport facilities that they use for this purpose, the activities that they carry out and their outcome; and (vii) the proportion of supervisory activities carried out by inspectors in relation to their conciliation duties.*

*The Committee also requests the Government to communicate a copy of any inspection activity reports originating from regional directorates, including the reports cited in the Government's reports sent to the ILO in 2008 and 2011; a copy of the draft or final text of the regulations relating to the status and conditions of service of labour inspectors; copies of the proposed amendments to the Labour Code, and of the memorandum which was reportedly sent to the ILO and is intended to improve the functioning of the labour inspection service.*

*In order to establish a labour inspection system that will respond to the social and economic goals which are the object of the Convention, the Committee urges the Government to make every effort to adopt the measures needed to implement the measures described in the Committee's general observations made in 2007 (concerning the need for effective cooperation between the labour inspection service and the judicial system), in 2009 (concerning the need for statistics on industrial and commercial workplaces subject to labour inspection and the number of workers covered, and 2010 (concerning publication of the content of an annual report on the functioning of the labour inspection system). The Committee recalls once again the possibility of obtaining technical assistance from the ILO and of requesting, within the context of international financial cooperation, financial assistance in order to give the necessary impetus to the establishment and operation of the labour inspection system, and would be grateful for any information on progress made and difficulties encountered.*

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

## Dominica

### **Labour Inspection Convention, 1947 (No. 81) (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 2020, 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, 6, 7, 10 and 16 of the Convention. Numbers, conditions of service and functions of labour inspection staff. Number of labour inspection visits.* The Committee notes from the Government's report that the Labour Department cannot increase its staff and that inspectors operate in all areas of labour administration. The Government also declares that every attempt is made to ensure that inspectors are professional in their conduct. *The Committee requests once again the Government to indicate the criteria and process for the recruitment of labour inspectors, and to specify the training activities provided to them upon their entry into service and in the course of employment. Please also indicate how it is ensured that the conditions of remuneration and career development of labour inspectors reflect the importance and specificities of their duties, and take into account personal merit.*

*The Committee asks the Government to provide information on the time and resources spent on mediation/conciliation of industrial disputes in relation to their primary duties of inspection established under this Convention. It asks the Government to take the necessary measures to ensure that, in accordance with Article 3(2), any duties which may be entrusted to labour*

*inspectors in addition to their primary functions shall not be such as to interfere with the effective discharge of the latter. It also asks the Government to provide information on the measures taken to ensure that all workplaces are inspected as often and as thoroughly as necessary in line with Article 16 of the Convention.*

*Article 15. Duty of confidentiality.* Referring to the Committee's previous comments on this issue, the Committee notes from the Government's report that there has not been any change in legislation to give effect to this Article of the Convention and that the issue is to be addressed by the Industrial Relations Advisory Committee. The Government also reports that the department and labour inspectorate have always maintained strict confidentiality. **The Committee once again requests the Government to take steps to ensure that the legislation is supplemented so as to give full effect to Article 15 of the Convention and to keep the Office informed of all progress in this respect and to send copies of any relevant draft or final texts.**

*Articles 5(a), 17, 18, 20 and 21. Cooperation with the justice system and enforcement of adequate penalties. Publication and content of an annual report.* The Committee notes from the Government's report that steps will be taken to improve the quality of the annual report on inspection services. **The Committee hopes that the Government will make every effort to ensure that an annual report on the work of the labour inspection services is elaborated and published and that it contains information on all the items listed in Article 21 of the Convention, notably, statistics of inspection visits, violations and penalties imposed as well as industrial accidents and cases of occupational disease.** The Committee draws the Government's attention in this regard to the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), as to the type of information that should be included in the annual labour inspection reports.

**The Committee expects 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)**

*Articles 6, 10 and 16 of the Convention. Status and conditions of service of labour inspectors. Inspection staff and coverage of inspection needs.* Further to its previous comments, the Committee notes with **concern** that the Government indicates in its report that, due to strict austerity measures, which limit the holding of public recruitment competitions, none of the new labour inspectors appointed in 2018 were appointed on a permanent basis (28 inspectors with provisional appointments and three under the regime of contracts for occasional services). The Committee also notes that the Government indicates that all labour inspectors have the same powers regardless of their employment status. In this regard, the Committee recalls once again that, under *Article 6* of the Convention, inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of changes of government and of improper external influences. Furthermore, the Committee takes note that the Government indicates that, from 2017 to 2018, the number of inspectors decreased by 22.5 per cent. **The Committee urges the Government to take the necessary measures to ensure that Article 6 of the Convention is applied in practice. The Committee also requests the Government to take the necessary measures to ensure that the number of labour inspectors is sufficient for the effective performance of their duties by providing updated statistical information on the number of inspectors and workplaces liable to inspection and the number of workers employed therein. Finally, the Committee requests the Government to indicate the reason for the considerable decrease in the number of inspectors.**

*Articles 19, 20 and 21. Periodic reports and the preparation, publication and transmission of an annual report on the work of the inspection services.* Further to its previous comments, the Committee notes with **regret** that the Office has not received an annual report on the work of the labour inspection services. In this regard, the Committee notes the Government's indication that the Regional Labour Directorates annually prepare periodic reports on the activities carried out by their units, including information on the inspections undertaken, and that the possibility of preparing specialized reports on the subject of inspections will be considered. **The Committee requests the Government to make every effort to ensure that the central authority on labour inspection publishes and 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 is raising other matters in a request addressed directly to the Government.

## Grenada

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1979)**

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 2020, 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 20 and 21 of the Convention. Establishment, publication and communication to the ILO of annual inspection reports.* In its previous comments, the Committee noted that despite its reiterated comments on this subject, no annual labour inspection reports had been communicated to the ILO since 1995. It notes that the Government underlines the importance of establishing, publishing and transmitting annual labour inspection reports, but that it indicates that the annual reports as currently prepared do not contain all of the subjects as required under *Article 21*. **The Committee urges the Government to indicate the measures adopted or envisaged to ensure that annual inspection reports are published and transmitted to the ILO in accordance with the requirements of Articles 20 and 21. The Committee reminds the Government, once again, that it may avail itself of technical assistance for this purpose.**

**The Committee requests the Government in any event to provide statistical information that is as detailed as possible on the activities of the labour inspection services (industrial and commercial workplaces liable to inspection, number of inspections,**

*infringements detected and the legal provisions to which they relate, penalties applied, number of industrial accidents and cases of occupational disease, etc.) to enable the Committee to make an informed assessment on the application of the Convention in practice.*

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.*

## Honduras

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1983)**

The Committee notes the observations of the Honduran National Business Council (COHEP), received in 2016 and in 2017, respectively, as well as the Government's reply received in 2016 and 2017 in this regard. The Committee also notes the observations of the COHEP and the General Confederation of Workers (CGT), communicated with the Government's report.

*National Labour Inspection Strategy, 2018–22.* With regard to its previous comments, the Committee notes that the Government formulated, with the assistance of the ILO, the National Labour Inspection Strategy, 2018–22. The Committee further notes that the Government reports: (i) the approval of a specific budget of 20,000,000 lempiras (approximately US\$820,000), allocated for the operations of the General Directorate of Labour Inspection (DGIT); (ii) that labour inspectors have received training; and (iii) the submission to the Advisory Committee of the Secretariat of Labour and Social Security of a technical audit of the labour inspection system, produced by the ILO using information from the Ministry of Labour and Social Security. The Committee also notes the adoption of the Labour Inspection Act, approved through Decree No. 178-2016 of 23 January 2017. ***The Committee requests the Government to provide information on the specific steps taken to implement the National Labour Inspection Strategy, and to report the progress made in achieving the established targets.***

*Article 6 of the Convention. Adequate conditions of service of labour inspectors, including sufficient remuneration to ensure their impartiality and independence from any improper external influences.* With regard to its previous comments on the remuneration of labour inspectors and a proposed system to investigate complaints made against them, the Committee notes the Government's indication that the lowest wage paid to a labour inspector is 7,599 lempiras – approximately US\$310 (Labour Inspector I, group 2, grade 6), while the lowest wage paid to a tax inspector is 12,698 lempiras – approximately US\$512. The Government also reports that the new inspection body has wages different to those earned by the more senior inspectors. In this respect, the Committee notes the CGT's allegation that the wages of inspectors need to be brought to the same level. The Committee also notes the Government's indication that, in the event of a complaint against a labour inspector, a hearing is held, after which the Legal Department issues a decision, which may result in the dismissal of the proceedings, a reprimand, suspension of work without pay or dismissal of the accused. ***In order to ensure the impartiality and independence of labour inspectors from improper external influences, the Committee requests the Government to adopt measures to guarantee that the remuneration of labour inspectors is similar to that of other public officials who assume responsibilities of similar category and complexity (for example, tax inspectors), and to provide details on these measures and illustrative figures in this respect. The Committee also requests the Government to provide information on any investigations launched against labour inspectors (including those provided for in section 22 of the new Labour Inspection Act) and their outcomes, as well as the number of complaints received and investigations conducted.***

*Articles 10 and 16. Number of labour inspectors and the performance of a sufficient number of routine visits throughout the country.* In relation to its previous comments on hiring labour inspectors, the Committee notes the Government's indication that it is planned in the budget to hire a further 39 labour inspectors, distributed throughout the various regional offices in the country. In this respect, the Committee notes that, according to information in a DGIT document entitled "The Labour Inspection Context in Honduras, 2018", in December 2018, there were 169 labour inspectors in total. The Committee also notes the COHEP's allegations that there are many areas in which no labour inspections of any kind are conducted due to a lack of organization and inspectors, particularly in the informal economy. ***The Committee requests the Government to provide information on the progress made in hiring labour inspectors, indicating the current number of active inspectors. The Committee also requests the Government to provide information on the measures adopted to improve inspection coverage of workplaces (including in the informal economy). The Committee further requests the Government to provide additional information on the priority issues for labour inspection and how these priorities are determined. Lastly, in accordance with sections 41 and 42 of the new Labour Inspection Act, the Committee requests the Government to provide detailed information on the number of regular and extraordinary inspections and, if possible, to disaggregate the statistics by region and sector.***

*Article 11. Adequate financial and material means, including transport facilities.* In relation to its previous comments on the material conditions of the inspection services and the reimbursement of the costs incurred by inspectors in the performance of their functions, the Committee notes that the Government reports: (i) the acquisition of four vehicles, furniture and computers with internet connection, as well as uniforms, the renovation of offices and the renting of new offices for the labour inspectorate; and (ii) the budgeted costs of the DGIT for the 2017 financial year. The Committee notes with ***regret*** that the Government's report does not contain information on the reimbursement of the costs incurred by inspectors in the performance of their functions. In this regard, the Committee notes the allegations of the CGT and the

COHEP that it is common practice for labour inspectors to cover the transport costs to deal with complaints from workers. *The Committee requests the Government to continue providing information on the material conditions of the inspection services throughout the territory, including the transport facilities available to the various inspection services. Furthermore, the Committee requests the Government to ensure that adequate material means are provided to inspectors for the performance of their functions, and that any costs incurred by inspectors in the performance of their duties are reimbursed. It requests the Government to provide detailed information on the fulfilment of this obligation in practice, including the number of cases in which these costs have been reimbursed and the amount paid to labour inspectors for this reason, as well as the number of cases where requests for reimbursement have been denied and the reasons given.*

*Article 18. Adequate penalties for violations of the legal provisions enforceable by labour inspectors.* In its previous comments, the Committee requested the Government to provide information on the measures adopted to ensure that the penalties for violating the legislation were sufficiently dissuasive. The Committee notes with *interest* that the new Labour Inspection Act establishes increased financial fines. The Committee also notes that the Government: (i) reports that the discrepancy between the number of violations detected and cases that were subject to penalties can be explained by the fact that most enterprises were able to remedy the irregularities in the application of the legislation; and (ii) provides information on the violations detected and the fines imposed since the entry into force of the new Labour Inspection Act (in total, 17 violations and 1,700,000 lempiras – approximately US\$69,000). *The Committee requests the Government to continue providing information on the number of violations detected, the penalties imposed, indicating the amount of the fines levied and paid, as well as any sentences of imprisonment, if applicable, specifying the areas to which they refer (occupational safety and health, child labour, non-payment of wages, termination of employment, etc.).*

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

## India

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)***

The Committee notes the observations made by the Council of Indian Employers (CIE), received on 30 August 2019, and the observations made by the International Trade Union Confederation (ITUC), received on 1 September 2019, as well as the Government's reply in relation to the observations made by the ITUC.

### ***Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)***

The Committee notes the discussion in the Conference 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: (i) ensure that the draft legislation, in particular the Code on Wages, and the OSH and Working Conditions Act, is in compliance with the Convention; (ii) ensure that effective labour inspections are conducted in all workplaces, including the informal economy and in all Special Economic Zones (SEZs); (iii) promote collaboration between officials of the labour inspectorate and employers and workers, or their organizations, in particular when it comes to the implementation of inspection reports; (iv) increase the resources at the disposal of the central and state government inspectorates; (v) ensure that labour inspectors have full powers to undertake routine and unannounced visits and to initiate legal proceedings; (vi) pursue its efforts towards the establishment of registers of workplaces at the central and state levels; (vii) provide detailed information on the progress made with respect to measures taken to improve the data collection system, enabling the registration of data in all sectors; (viii) ensure that the operation of the self-certification scheme does not impede or interfere with the powers in functions of labour inspectors to carry out regular and unannounced visits in any way, as this is only a complementary tool; (ix) submit its annual report on labour inspection to the ILO; and (x) provide information on the number of routine and unannounced visits, as well as on the dissuasive sanctions imposed against infractions to guarantee the enforcement of labour protections in practice. The CAS also invited the Government to accept a direct contacts mission and to elaborate a report in consultation with the most representative employers' and workers' organizations on progress made in the implementation of the Convention in law and practice. The Committee notes with *concern* the statement in the Government's report that it does not accept any direct contacts mission.

*Articles 2 and 4 of the Convention. Labour inspection in SEZs.* In its previous comments, the Committee noted the Government's earlier indication that few inspections had been carried out in SEZs, and that Development Commissioners continued to exercise inspection powers in some SEZs. The Committee notes the observations of the ITUC expressing concern that the power of labour inspectors are being exercised by Development Commissioners who have a responsibility to promote investment in SEZs. The Committee also notes the observations made by the CIE that some of the SEZs have jurisdictions in more than one state, and that due to this administrative difficulty, Development Commissioners have been appointed to oversee the functioning of the SEZs. The CIE adds that Development Commissioners have been given full powers to enforce the labour laws through labour inspectors deputed by the local governments.

The Committee notes the Government's indication, in response to the concerns expressed by the ITUC, that the deputed labour inspectors from the states work independently, are paid by the states and may conduct inspections on their proper initiative without prior intimation to the Development Commissioners. The Committee further notes the

Government's indications, in reply to the Committee's request to ensure that effective labour inspections are conducted in all SEZs, that the number of inspections has increased substantially in the last three years. In this respect, the Committee notes with *interest* from the statistical information provided by the Government, an increase in the number of inspections undertaken in six of the seven SEZs from 2016–17 to 2018–19: from 0 to 62 in Falta Kolkata; from 26 to 30 in Vishakapatnam; from 46 to 105 in Mumbai; from 16 to 30 in Noida; from 368 to 2,806 in Kandla; and from 189 to 222 in Chennai. The number of inspections undertaken in the SEZ Cochin went from 22 to 18 over the same period. The Committee notes however, that the number of penalties imposed remained low, and in three out of the seven SEZs, no penalties were imposed during this period. ***The Committee requests the Government, in line with the 2019 conclusions of the CAS, to ensure that effective labour inspections are conducted in all SEZs. Welcoming the information already provided, the Committee requests the Government to provide more detailed statistical information on the number of labour inspectors responsible for inspections in these zones, the number of inspection visits, the number and nature of offences reported, the number of penalties imposed, the amounts of fines imposed and collected, and information on criminal prosecutions, if any. It also requests the Government to continue to provide information on the number of enterprises and workers in each SEZ. The Committee further requests the Government to provide up-to-date information indicating in which SEZs labour inspection powers have been delegated to Development Commissioners, including the specific powers so delegated and how inspections are carried out in those SEZs.***

*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 the Government's reference, in reply to the Committee's previous request for an annual labour inspection report, to the 2018–19 report published by the Ministry of Labour and Employment, which contains 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). Concerning the state level, the Committee notes the statistical information on labour inspection activities provided by the Government with its report (including on the number of labour inspections in 14 states, and the number of violations detected, prosecutions and penalties imposed in 15 states). Finally, the Committee welcomes the information available on the Shram Suvidha web portal at the Ministry of Labour and Employment concerning the information on registered workplaces in nine states and the information that discussions are ongoing with other states concerning the integration of information into the portal. The Committee also notes the observations made by the ITUC that the statistical data provided does not allow for an assessment of the effective operation of the labour inspection services. ***The Committee urges the Government to pursue its efforts to ensure that the central authority (at the central level or the state levels), publishes and transmits to the ILO annual reports on labour inspection activities containing all the information required by Article 21. In line with the 2019 conclusions of the CAS, the Committee encourages the Government to pursue its efforts towards the establishment of registers of workplaces at the central and state levels. In this regard, the Committee also once again requests the Government to provide detailed information on the progress made with respect to measures taken to improve the data collection system enabling the registration of data in all sectors.***

*Articles 10 and 11. Material means and human resources at the central and state levels.* The Committee notes with *interest* the Government's indication, in response to the Committee's request to increase the resources at the central and state government inspectorates, that more than 574 labour inspectors have been recruited at the state levels in the last two years, bringing the total number of labour inspectors to 3,721. The Government adds that at the central level, the number of labour inspectors is 4,702. The Committee also notes the information provided by the Government in relation to the central level and 19 states on the transport facilities or transport allowance provided, as well as on the available material resources.

The Committee notes the statement of the CIE that the use of technology, information and communications technology in particular, has contributed to promoting compliance. The Committee also notes the observations made by the ITUC that the human and material resources of the labour inspectorate are inadequate. It notes the Government's reply that inspectors at the central government level and in most states are provided vehicles for conducting inspections. ***In line with the 2019 conclusions of the CAS, the Committee requests the Government to continue to take measures to increase the resources at the disposal of the central and state government inspectorates, and to provide information on the concrete measures taken in that respect. It also requests the Government to continue to provide information on the number of labour inspectors, material resources and transport facilities and/or budget for travel allowances of the labour inspection services at the central level and for each state, and to provide statistical information on the workplaces liable to inspection at the central level and state levels.***

*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 previously requested the Government to ensure that, in the ongoing legislative reform, any legislation developed be in conformity with the Convention. The Committee notes the Government's indication, in response to this request, that the Code on Wages was adopted in August 2019, and that the OSH and Working Conditions Bill is currently before Parliament. The Committee notes that pursuant to section 51(5)(b) of the Code on Wages, labour inspectors entitled "inspectors-cum-facilitators" may inspect establishments "subject to the instructions or guidelines issued by the appropriate Government from time to time". It 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 through a written direction (section 54(3)). The Committee further notes that the OSH and Working Conditions Bill provides that inspectors-cum-facilitators shall

conduct inspections, including web-based inspections, in such manner as prescribed by the appropriate Government (section 34(2)). The Bill gives inspectors-cum-facilitators the power to enter workplaces, but requires them to give notice in writing prior to undertaking a survey (section 20(1)), and with respect to inspections in mines, to provide at least three days before conducting inspections, except in emergency situations (section 41). The Committee notes the statistics provided by the Government concerning the number of convictions and penalties imposed at the central level and for 11 states for the period of 2016–19. *Noting that the Code on Wages provides for inspections subject to the instructions or guidelines issued by the appropriate Government, the Committee urges the Government to ensure that the instructions issued fully empower labour inspectors in accordance with Article 12(1)(a) and (b) of the Convention. It also requests the Government to take the necessary measures to ensure that labour inspectors are able to initiate legal proceedings without previous warning, where required, in conformity with Article 17 of the Convention. In this respect, it requests the Government to provide further information on the meaning of the term “inspectors-cum-facilitators,” including the functions and powers of officials performing this role. The Committee further requests the Government, in line with the 2019 conclusions of the CAS, to take measures to ensure that any legislation developed is in conformity with the Convention, including empowering labour inspectors to enter workplaces without previous notice, in conformity with Article 12(1)(a) and (b) of the Convention. Noting the statistics already provided, the Committee requests the Government to provide information on the number and nature of offences reported, the number of penalties imposed, the amounts of fines imposed and collected, and information on criminal prosecutions, if any.*

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)**

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.* The Committee notes that the Government states in its report, in response to its previous request concerning the functions of labour inspectors relating to the employment of migrant workers in an irregular situation, that: (i) the inspection activity concerning labour and social legislation, with the assistance of the Carabinieri forces, has in recent years paid particular attention to combating undeclared work, especially in the agricultural sector; (ii) although ascertaining whether third-country nationals have entered Italy legally does not fall within the specific remit of local inspectorates, inspection personnel – as investigative police officials – 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 offense; (iii) the invalidity of the employment contract following failure to comply with necessary procedures, does not prejudice the rights of workers who do not hold residence permits as regards remuneration, contributions, working hours, health and safety and the principles of non-discrimination and protection of minors and working mothers; (iv) an Interministerial Decree of the Ministry of the Interior, Ministry of Labour and Social Policy, and the Ministry of Economy and Finance was issued in 2017 (on implementing the provisions of section 1(3) of Legislative Decree No. 109/2012) which provides that migrant workers are informed by labour inspectors of their rights to wages and insurance and social security contributions and of the means to assert those rights; and (v) an action was planned for 2016 to fight undeclared work with particular regard to agriculture. The Committee also notes the Government’s indication, in reply to its previous request, that information on the actions taken when regularizing the employment relationship of migrant workers in an irregular situation, as well as information on the rights that were granted to them following their detection – including the number of cases in which wages and social security contributions were paid for work performed, and compensation was provided for accidents at work – is not available, and will be sent in the next report.

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. In this respect, the Committee recalls that in its 2017 General Survey on certain occupational safety and health instruments, paragraph 452, it indicated 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 urges the Government to take additional measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors, in accordance with Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. In this respect, it requests the Government to provide information on the manner in which it ensures that the cooperation with the public security authorities does not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers, in accordance with Article 3(2) of the Convention. The Committee requests the Government to provide*

*further information on the implementation of the role of labour inspectors in informing migrant workers about their rights, including any available statistics on the application of the Interministerial Decree of 2017. Lastly, it once again requests the Government to provide information on the concrete actions taken when regularizing the employment relationship of migrant workers in an irregular situation, as well as information on the rights that were granted to them following their detection (such as the number of cases in which their outstanding wages and other benefits were fully paid and cases in which compensation was paid in the event of past work accidents).*

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

## Republic of Korea

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1992)**

The Committee notes the observations of the Korean Confederation of Trade Unions (KCTU), received in 2017, and of the Federation of Korean Trade Unions (FKTU), communicated with the Government's report, and the Government's reply thereto.

*Articles 6, 10, 16 and 17 of the Convention. Number of labour inspectors and inspection visits, conditions of service of labour inspectors and enforcement.* The Committee notes the indication in the Government's report, in reply to its previous request, that the workload of labour inspectors persists despite a steady increase in the number of labour inspectors since 2012. The Government indicates that in 2016, there were 1,282 labour inspectors (up from 1,241 in 2012) and 412 OSH inspectors (up from 362 in 2012), but that the number of workplaces subject to labour and OSH inspections has also continued to rise. The Government indicates that the decision was made to add 500 more labour inspectors in the second half of 2017 with further increases in 2018. According to the statistics provided by the Government, the number of inspections increased from 2014 to 2016 (16,889 inspections in 2014 to 21,465 in 2016, and 20,299 OSH inspections in 2014 to 26,920 in 2016), accompanied by an increase in the number of cases of judicial action ordered. In 2016, 1,410 cases related to labour law violations were referred to judicial proceedings following labour inspection procedures (corrections or suspension measures and fines), compared with 331 cases in 2014. In the area of OSH, 4,285 cases were referred for judicial action, compared with 2,447 cases in 2014. The Committee also notes the revision of the Work Guidelines for Labour Inspectors (Directive No. 185) that aims to strengthen compliance by, among other measures, enabling labour inspectors to take immediate judicial action regarding serious violations and expedite corrective action through shortening the applicable time limits.

The Committee notes the observations of the KCTU that the increase in the number of labour inspectors has not been sufficient to cover the increase in the volume of cases handled by them, and that in a number of cases the Ministry of Employment and Labour did not begin investigations even when significant suspicion was raised about violations of workplace laws, allowing employers sufficient time to destroy evidence. Referring to a study released in 2015 by the Korean Labour Institute indicating that labour inspectors are likely to be exposed to overtime work of more than 12 hours a week, the KCTU emphasizes the importance of monitoring the implementation of the Government's plan to increase the number of labour inspectors. ***The Committee urges the Government to strengthen its efforts to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate, as required under Article 10 of the Convention. It also asks the Government to provide information on the implementation of its plan to increase the number of labour inspectors, including its impact on the performance of labour inspection activities and the conditions of work for labour inspectors. The Committee further requests the Government to provide information on the amount of overtime currently being worked by inspectors and to provide further information on any measures taken or envisaged to improve their conditions of service. In this respect, the Committee requests the Government to provide information on levels of compensation and working conditions for labour inspectors compared to other civil servants exercising similar authority or with comparable levels of responsibility. Lastly, the Committee requests the Government to provide information on the outcome of the judicial proceedings for the cases referred following labour inspections.***

*Article 12(1)(a). Unannounced visits.* The Committee previously noted the Government's indication that, pursuant to the 2010 amendments to the Work Guidelines for Labour Inspectors, a ten-day prior notice to the employer is required for a regular inspection visit (section 17 of the Work Guidelines), but that occasional and special visits are conducted without advance notice mainly based upon complaints. With regard to OSH inspections, it notes that, pursuant to section 13 of the Work Guidelines for OSH Inspectors, OSH inspections shall be carried out without prior notice in principle except when an inspection visit needs to be made outside business hours or where free access is not allowed for military or security reasons. In addition, the Committee notes the introduction of the Integrated Unpaid Wage Report System. Under the system, anyone can confidentially report cases of unpaid wages to the labour inspectorate, upon which unannounced inspections can be initiated. According to the Government, the number of unannounced inspections was substantially reduced (by more than two-thirds) from 14,985 in 2014 to 4,606 in 2015, before being somewhat increased to 6,351 in 2016, a number roughly equivalent to the 6,297 regular inspections that year. The Committee notes that since 2015, a significant number of new inspections regarding basic employment rules have been carried out (9,045 in 2015 and 8,578 in 2016). The Government indicates that it continues to expand the number of unannounced inspections in order to strengthen compliance with basic employment rules, such as minimum wages, payment of wages and hours of work. ***Further to its previous comments, the Committee requests the Government to indicate whether inspections regarding basic employment rules are carried out***

without prior notice. It also requests the Government to provide information on the reasons for the significant decrease in the number of unannounced inspections since 2014. Finally, the Committee requests the Government to continue to provide information on the number of unannounced visits, including those initiated upon complaints made under the Integrated Unpaid Wage Report System, as compared to the total number of inspection visits, and to provide information, disaggregated between announced and unannounced visits, on the results secured from these inspections (violations identified, corrective measures ordered, judicial action undertaken and sanctions imposed and collected).

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

## Lebanon

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)**

*Labour law reform.* The Committee notes the information provided by the ILO Decent Work Technical Support Team and the Regional Office for Arab States that a tripartite meeting took place in 2019 with the support of the ILO and that a new labour law reform is under way. **The Committee requests the Government to take into account the matters raised below and in a request addressed directly to the Government in the context of this new reform process, in order to ensure the full conformity of a new Labour Code with the Convention, and to provide information on any progress made in this regard.**

*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 notes the Government's reply in its report that the role of labour inspectors is limited to accessing union records and to cases where a union submits its final account or a union council member files a complaint. The Government indicates that there are currently no complaints in this respect with the Department of Labour Relations and Trade Unions. The Committee further notes the statistics provided by the Government indicating that, in 2015, the labour inspectorate supervised 207 trade union elections and received 13 applications for authorization to establish unions.

In this respect, the Committee recalls 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 and impartiality which are necessary to inspectors in their relations with employers and workers. Further, the Committee expressed reservations in its 2006 General Survey, *Labour inspection*, paragraph 80, regarding excessive use of close supervision by labour inspectors of the activities of trade unions and employers' organizations, to the extent that it takes the form of acts of interference in these organizations' legitimate activities. **The Committee urges the Government to take the necessary steps, in the context of the ongoing labour law reform, to ensure that the functions assigned to labour inspectors do not interfere with their main objective, which is to provide for the protection of workers in accordance with Article 3(1) of Convention No. 81. 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 acts of interference in their legitimate activities and internal affairs.**

2. *Work permits for migrant workers.* The Committee notes the statistics provided by the Government indicating that, in 2015, a significant amount of the labour inspectorate's activities focused on the issuance (60,814) and renewal (148,860) of work permits, as well as inspections related to work permits (253). **The Committee requests the Government to take specific measures to ensure that the functions assigned to labour inspectors to issue and monitor work permits do not interfere with the main objective of labour inspectors 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 in these work areas, compared to activities aiming at securing 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 the Memorandum No. 68/2 of 2009 which requires prior authorization in writing for all unscheduled inspection visits. It notes that, 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 and all parts thereof; and in conducting an inspection visit they shall apprise the employer of their presence on the premises, unless they consider such information detrimental to the execution of their functions. However, the Committee also notes the Government's indication 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 that *Article 12* of the Convention 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 once again requests 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.

## Malta

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1965)**

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1988)**

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 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 the Government's indication in its report, in reply to its previous request, that the number of labour inspectors working at the Department of Industrial Relations and Employment has increased to ten inspectors and that there is an ongoing procedure to recruit another inspector within that Department. The Government adds that two senior managers were recruited in late 2015 with the specific aim of inspecting and investigating claims of precarious work in companies providing services to government departments and public entities. The Committee notes that the Government has not provided a reply to its previous request as regards the conditions of service of labour inspectors. In this respect, the Committee notes the statement in the latest annual reports of the Department of Industrial Relations and Employment (available on the website of that entity) that there have been many changes in the staff of that Department. The Committee also notes with *concern* from these reports that there has been a decrease in the number of labour inspections between 2015 and 2018, with a particularly significant decrease in these numbers between 2017 and 2018. In fact, it notes from these statistics that there was a decrease from an average of 963 labour inspections in 2017 (resulting in the detection of about 285 violations in that year) to 154 labour inspections in 2018 (with 274 violations detected). The Committee notes from the annual reports of the Occupational Health and Safety Authority that between 2015 and 2018, the number of staff at the Occupational Health and Safety Authority rose from 31 to 35 (and the number of persons in professional and technical positions rose from 15 to 20), and the number of visits undertaken by the Occupational Health and Safety Authority rose from 2,139 in 2015 to 3,738 in 2018. *The Committee requests the Government to provide an explanation for the substantial decrease in the number of labour inspections undertaken by the Department of Industrial Relations and Employment, especially as regards the decrease between 2017 and 2018, and to indicate what measures it is taking or plans to take to increase the number of inspections in light of prior levels. Moreover, as the Government has not provided a reply in this respect and in view of the fluctuations in the staff of the Department of Industrial Relations and Employment, the Committee once again requests the Government to provide information on the conditions of service of labour inspectors and to indicate whether they are such as to attract and retain sufficient numbers and motivated staff. In addition, the Committee requests the Government to continue to provide information on the number of labour inspectors working at the Department of Industrial Relations and Employment and at the Occupational Health and Safety Authority, 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.

## Republic of Moldova

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1996)**

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1997)**

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 made by the National Confederation of Trade Unions of Moldova (CNSM), received on 30 August 2019.

*Article 4 of Convention No. 81 and Article 7 of Convention No. 129. Supervision and control of a central authority. Occupational safety and health (OSH).* The Committee previously noted that Law No. 131 of 2012 on state control of entrepreneurial activities withdraws supervisory duties in the area of OSH from the state labour inspectorate (SLI) and

transfers it to ten other sectoral agencies. In this respect, the Government indicated that a methodology on state control over entrepreneurial activities was being finalized. This methodology would be monitored and coordinated by the SLI and would ensure the application of standard rules in the planning and implementation of OSH inspections for the ten sectoral agencies. The Government also indicated that an e-learning training system would be developed and that the agencies were provided with forms for monthly reporting to the Ministry of Health, Labour and Social Protection. The Government further stated that most of these sectoral agencies had territorial offices and that inspectors with OSH responsibilities within the agencies would be provided with the status of civil servants. The Committee also noted that, according to the report of the ILO mission undertaken in 2017, the reform in the area of OSH had adversely impacted staff retention and the conditions of service of inspectors and that not all of the sectoral agencies with OSH responsibilities had yet been established, nor did they all have territorial or local units.

The Committee notes the observations of the CNSM that the labour inspection system does not meet the requirements of *Article 4* of Convention No. 81 and *Article 7* of Convention No. 129. Of the sectoral agencies, five are under the Ministry of the Economy, one is under the Ministry of Agriculture, Regional Development and the Environment, one is under the Ministry of Health, Labour and Social Protection, and two are independent bodies. The union states that the dispersion of inspection duties has diminished the efficiency of state control, especially in the field of OSH. In this respect, the CNSM indicates that the number of fatal work accidents rose from 33 in 2017 to 38 in 2018. The union also indicates that, due to failures in the field of OSH, it has repeatedly urged the Government to return to an integrated system of labour inspection, covering both labour relations and OSH. The union further states that there is a lack of qualified personnel within the sectoral agencies (with 31 inspectors across ten agencies) and that the lack of territorial coverage by some agencies leads to a lack of protection and in practice exempts certain workplaces from state supervision related to OSH.

The Committee notes the indication in the annual labour inspection report of 2018 that inspectors in the sectoral agencies responsible for OSH inspections provide reports to the SLI on inspections undertaken. The Committee recalls, however, that both the report of the ILO mission which visited the country in December 2017 and the Observation of this Committee published in 2019 emphasized the necessity for the Government to ensure coordination among the various sectoral agencies so as to ensure the implementation and monitoring of OSH inspection visits. In this respect, the Committee notes with **deep concern** that, according to the information in the 2018 report, only two of the ten sectoral agencies had conducted any OSH inspections (with 21 inspections carried out in the fourth quarter of 2018, detecting 26 violations). The number of inspectors in those agencies decreased from 36 in 2017 to 31 in 2018. The Committee further notes, once again, with **concern** an increase in the number of injured persons registered (503 in 2018, compared with 448 in 2017 and 371 in 2016 according to the annual labour inspection reports). Lastly, it notes an absence of information, in response to the Committee's previous request, concerning the development of a methodology for OSH inspections for the sectoral agencies or a training system for inspectors at these agencies. The Committee once again recalls the importance of ensuring that organizational changes to the labour inspection system are carried out in conformity with the provisions of Conventions Nos 81 and 129, including *Articles 4, 6, 9, 10, 11 and 16* of Convention No. 81 and *Articles 7, 8, 11, 14, 15 and 21* of Convention No. 129. **Recalling prior concern expressed in this regard, the Committee urges the Government to take measures to ensure coordination among the various sectoral agencies, as well as between these agencies and the SLI, including steps taken to ensure monitoring by the SLI of the implementation of OSH inspection visits. It requests the Government to continue to provide information on the number of inspectors appointed in the sectoral agencies as well as the number of inspections undertaken by them, and to indicate the reasons why inspections were only carried out by two of the ten agencies in 2018. It once again requests the Government to provide information as to how the independence and impartiality of inspectors appointed in the sectoral agencies is ensured in light of their reporting to the management of the sectoral agencies, and as to specific measurable progress in providing all inspectors the status of civil servants. It urges the Government to take measures to ensure that inspectors are adequately trained, and to provide information on the measures taken in that respect, including the number of trainings held, the subjects covered, and the number of participants. The Committee further requests the Government to provide information on the manner in which technical occupational safety and health experts and specialists are associated in the work of inspection and the measures taken to provide such inspectors with suitably equipped local offices (including in sectors covered by agencies currently without local offices) as well as the transport facilities necessary for the performance of their duties. Lastly, the Committee requests the Government to take measures to ensure that the information on the activities of OSH inspectors in the sectoral agencies, reflected in the annual report on labour inspection, addresses all subjects covered in Article 21 of Convention No. 81 and Article 27 of Convention No. 129.**

*Articles 5(a), 17 and 18 of Convention No. 81 and Articles 12(1), 23 and 24 of Convention No. 129. Cooperation with the justice system and adequate penalties for violations of the legal provisions enforceable by labour inspectors.* The Committee previously noted a significant decline between 2012 and 2017 in the number of infringement reports submitted to courts (from 891 to 197 such reports). The Government indicated that this was due to a decrease in the number of entities subjected to inspection visits since the adoption of Law No. 131 in 2012. It indicated that in 2017, the Contravention Code was amended to introduce a section on violations of OSH provisions, and that it therefore expected the number of infringement reports produced by inspectors to increase in the future.

In this respect, the Committee takes due note of the information in the Government's report concerning the number of infringement reports submitted to court in 2018 (270 in 2018, rising from 197 in 2017 and 165 in 2016). The Government

also provides information related to the payment of salary arrears paid following inspections. The Committee also notes the observations of the CNSM that although the Government's report contains information on the number of infringement reports, there is no information on their outcome following their referral to court. The CNSM also indicates that although 26 violations related to OSH were detected by inspectors at the sectoral agencies, infringement reports were not prepared. **The Committee requests the Government to continue to provide information on the number of infringement reports submitted to courts, and to indicate the number, if any, of infringement reports related to OSH violations following inspections by OSH inspectors in the sectoral agencies. In addition, and noting an absence of information in response to the Committee's previous request, it urges the Government to provide information on the specific outcome of the infringement reports submitted to the courts, indicating the decision rendered and if any fine or other penalty was applied.**

*Article 5(b) of Convention No. 81 and Article 13 of Convention No. 129. Collaboration of the labour inspection services with employers and workers or their representatives.* The Committee notes the observations of the CNSM that the union has, in the context of the National Commission for Collective Consultations and Negotiations, systematically raised the issue of monitoring in the field of OSH, and the need to eliminate the contradictions between national legislation and the provisions of Conventions Nos 81 and 129. **The Committee once again requests the Government to provide information on the measures taken to promote effective dialogue with employers' and workers' organizations concerning labour inspection matters. It also requests the Government to provide information on the consultations undertaken in this respect in the National Commission for Collective Consultations and Negotiations, as well as the measures taken following such consultations.**

*Articles 10 and 11 of Convention No. 81 and Articles 14 and 15 of Convention No. 129. Human resources and material means for labour inspection.* The Committee notes the information from the annual labour inspection reports for 2017 and 2018 that the budget for the SLI decreased substantially from 15,820,100 Moldovan lei (MDL) in 2017 to MDL9,475,800 in 2018. It also notes with **concern** a significant decrease in the number of inspectors, particularly in the territorial offices: from 109 inspectors in 2017 (22 in the central office and 87 in territorial offices) to 59 inspectors in 2018 (16 in the central office and 43 in territorial offices), and that the number of inspectors in the sectoral agencies decreased from 38 to 31 over the same period. **Recalling that the number of labour inspectors shall be sufficient to secure the effective discharge of the duties of the inspectorate, the Committee requests the Government to provide information on the measures taken to ensure an adequate number of labour inspectors, as well as information on the reasons for the significant decrease in the number of inspectors. It also requests the Government to provide information on the measures taken to ensure that sufficient budgetary resources are allocated for the labour inspectorate.**

*Article 12 of Convention No. 81 and Article 16 of Convention No. 129. Unannounced inspection visits.* The Committee previously noted that, prior to its amendment in 2017, Law No. 131 required that notice of a scheduled inspection visit be sent at least five working days in advance (section 18(1) and (2)), but that there were specific limited circumstances under which an unannounced inspection could be undertaken irrespective of the established schedule (section 19). Particularly, pursuant to section 19(1) of the Law, unannounced controls were permitted in the following cases: (i) follow-up inspections (to verify that recommendations of a previous scheduled inspection had been implemented); and (ii) if reliable information (supported by evidence) was available indicating that there has been a violation of the legislation or a situation of emergency which represents an imminent danger to life and/or property or damage to the environment exceeding a specific monetary value. The Committee subsequently noted that Law No. 131 was amended in 2017 (by virtue of Law No. 185) to specifically exclude inspections undertaken in the area of labour relations and OSH from the requirements in section 18 to provide five days' notice. It requested information on the impact of these amendments.

The Committee notes the information in the Government's report that, in 2018, the number of unannounced inspections undertaken was 571, indicating a slight increase from 2017, when 545 such inspections were undertaken (compared with 1,317 unscheduled inspections undertaken in 2015 and 610 such inspections in 2016). The Committee also notes, however, that pursuant to Law No. 179 of 2018, section 19 of Law No. 131 has been amended to specify that complaints and petitions, including notifications or requests from other state inspection bodies, may only serve as grounds for an unannounced inspection if the circumstances or information provided reasonably indicates a possible infringement which will imminently cause damage and only if these circumstances and information are supported by proof. Complaints, petitions or other claims that do not require the immediate initiation of an unannounced control, may be taken into account in the next annual planning of controls.

The Committee notes the statement of the CNSM that the amendment of Law No. 131, by Law No. 179/2018, has made the carrying out of unannounced inspections impossible in practice. The union states that violations of labour law have therefore become very difficult to detect and combat. **With reference to its comments below on the application of Article 16 of Convention No. 81 and Article 21 of Convention No. 129, the Committee requests the Government to take measures to ensure that labour inspectors are empowered in line with Article 12(1)(a) and (b) of Convention No. 81 and Article 16(1)(a) and (b) of Convention No. 129, to make visits without previous notice. It requests the Government to provide information on the impact of the amendments to section 19 of Law No. 131 on the activities of the labour inspectorate, including its capacity to make unannounced visits as required under both Conventions and its capacity to respond to complaints received. The Committee requests the Government to continue to provide information on the number of announced and unannounced inspections carried out by the SLI, and it urges the Government to provide the**

*same information on announced and unannounced inspections for OSH inspections carried out by sectoral agencies. With respect to inspections carried out by both the SLI and the sectoral agencies, it once again requests the Government to indicate in detail the number of violations detected and specific sanctions imposed for both announced and unannounced inspections.*

*Articles 15(c) and 16 of Convention No. 81 and Articles 20(c) and 21 of Convention No. 129. Confidentiality concerning the fact that an inspection visit was made in consequence of the receipt of a complaint. The Committee previously noted that, prior to the 2017 amendments to Law No. 131, unscheduled inspections were only undertaken as a result of a complaint or to conduct an investigation following an accident. Following the 2017 amendments, unscheduled inspections could be undertaken in the field of labour relations and OSH. Noting the further restrictions on unscheduled inspections introduced by Law No. 179/2018, the Committee requests the Government to provide information on measures taken to ensure that a sufficient number of inspections without prior notice are undertaken and to ensure that when inspections are conducted as a result of a complaint, the fact of the complaint as well as the identity of the complainant(s) is kept confidential. It requests the Government to indicate the number of inspections carried out without prior notice that were not undertaken as a result of a complaint or following the occurrence of an accident.*

*Article 16 of Convention No. 81 and Article 21 of Convention No. 129. Undertaking of inspections as often as is necessary to ensure the effective application of the relevant legal provisions. The Committee previously noted that certain provisions of Law No. 131 were not compatible with Article 16 of Convention No. 81 and Article 21 of Convention No. 129 on the carrying out of inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. Section 3(g) of Law No. 131 provides that inspections can only be carried out when other means to verify compliance with the law have been exhausted. Pursuant to section 14, control bodies are not entitled to perform a control of the same entity more than once in a calendar year, with the exception of unannounced inspections. Pursuant to sections 7 and 19, Law No. 131 permits unscheduled inspections only under certain specific conditions: they are subject to a delegation of control signed by the head authority vested with control functions; they cannot be carried out on the basis of unverified information and information received from anonymous sources; and they cannot be conducted when there are any other direct or indirect ways to obtain the information needed. In this respect, the Committee noted the Government's statement that, following the adoption of Law No. 131, the number of entities subjected to inspection visits decreased annually.*

The Committee notes the new amendments to Law No. 131 by virtue of Law No. 179/2018 limiting the circumstances in which an inspection can be undertaken in response to a complaint (examined above). It also notes new requirements that consideration be given to carrying out monitoring through a documentation check only. Pursuant to section 4 of Law No. 131 in 2018 (as amended by section 9 of Law No. 179/2018), inspection bodies must consider, when carrying out scheduled or unscheduled inspections, the possibility of carrying out the monitoring by a direct request to the enterprise for documentation. Only in the case of insufficient documentation and information, or based on the type of inspection and risk analysis, will the inspection body carry out an inspection visit. Section 4 was further amended to state that an inspection visit may be carried out if an enterprise does not reply to the request for documentation within ten working days. If an inspection visit is undertaken, the inspector does not have the right to request documentation that has previously been presented. The Committee notes the Government's indication that the SLI (including its territorial subdivisions) carried out 2,317 inspection visits in 2018 covering 108,703 workers (compared with 3,135 inspections covering 111,500 workers in 2017 and 4,458 visits covering 146,900 workers in 2016), and that 21 OSH inspections were carried out. The Government further indicates that 233 controls based on documentation were undertaken in 2018 following the procedure introduced in Law No. 179/2018.

The Committee notes the observations of the CNSM that with the new restrictions, introduced by Law No. 179/2018, the control authority will automatically request documentation instead of carrying out an inspection. The union states that the Government did not indicate how many of the 233 documentation checks carried out in 2018 detected violations or if any infringement reports were subsequently prepared. *Noting with grave concern the new restrictions on the undertaking of labour inspections, the Committee once again urges the Government to take the necessary measures to ensure that the national legislation is amended in the near future to allow for the undertaking of labour inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in conformity with Article 16 of Convention No. 81 and Article 21 of Convention No. 129. Lastly, the Committee requests the Government to take measures to ensure that labour inspectors with proper credentials shall be empowered to require the production of any documents which are required to be kept by law, in accordance with Article 12(c)(ii) of Convention No. 81 and Article 16(c)(ii) of Convention No. 129.*

*Article 17 of Convention No. 81 and Article 22 of Convention No. 129. Prompt legal or administrative proceedings. The Committee previously noted that section 4(1) of Law No. 131 provides that inspections during the first three years of a business' operation shall be of a consultative nature. Section 5(4) provides that, in such cases, in the event of minor violations, the sanctions provided for in the Administrative Offence Law or other laws may not be applied, and section 5(5) provides that "restrictive measures" may not be applied in the event of severe violations. It noted the observations of the International Trade Union Confederation that these restrictions constituted a free pass for companies in the first three years of their operation by stipulating that sanctions cannot be applied in the case of minor offences for this period.*

The Committee notes the statement of the CNSM that the prohibition on the application of restrictive measures is still in force, and that this is not in compliance with Article 17 of Convention No. 81 and Article 22 of Convention No. 129.

Noting with *deep regret* the absence of a reply to its two previous requests on this matter, the Committee once again recalls that *Article 17* of Convention No. 81 and *Article 22* of Convention No. 129 provide that, with certain exceptions (which are not directed at new operations), 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 urges the Government to take prompt measures to ensure that labour inspectors are able to initiate or recommend immediate legal proceedings for both severe and minor violations during the first three years of a business's operation, and to provide information on steps taken in this regard. It once again requests the Government to provide information on the meaning of "restrictive measures" that are prohibited from being imposed under Law No. 131, the number and nature of severe and minor violations detected by inspectors in the course of inspections in enterprises in the first three years of operation, the sanctions proposed by inspectors for severe violations, and the penalties ultimately applied.***

#### **Issues specifically concerning labour inspection in agriculture**

*Articles 9(3) and 21 of Convention No. 129. Sufficient number of inspections in agriculture and adequate training for labour inspectors in agriculture.* The Committee previously noted that the National Agency for Food Safety is in charge of OSH inspections in agriculture, and that labour inspectors at the Agency would carry out inspections in cooperation with other field inspectors of the Agency.

In this respect, the Committee notes with *concern* the indication in the 2018 annual labour inspection report that no OSH inspections were carried out by the National Agency for Food Safety in 2018. The Committee further notes the information in the 2018 report indicating a decrease in the number of inspections by the SLI (covering non-OSH issues): 363 inspections were conducted in agriculture, forestry and fisheries by the SLI in 2018 compared with 458 in 2017. ***The Committee requests the Government to take the necessary measures to ensure that agricultural undertakings are inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in conformity with Article 21 of Convention No. 129. It requests the Government to provide information on why the National Agency for Food Safety did not undertake any OSH inspections in 2018, and to provide information on the number of inspections undertaken in subsequent years. In addition, the Committee once again requests the Government to provide information on the training provided to labour inspectors that relates specifically to their duties in the agricultural sector, including the number of training programmes organized for inspectors of the National Agency for Food Safety with OSH functions, the subjects covered in these programmes and the number of inspectors who participated in these programmes.***

## **Pakistan**

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1953)**

*Articles 3(1) and (2), 4(2), 10 and 16 of the Convention. Effective organization of the labour inspection services and the supervision and control by central labour inspection authorities at the provincial levels. Number of labour inspectors and number and thoroughness of labour inspections.* The Committee previously noted from the 2016 national occupational safety and health (OSH) profile published by the Ministry of Overseas Pakistanis and Human Resources Development that there continued to be a serious shortage of labour inspectors in relation to the number of workplaces liable to inspection. One of the recommendations in that profile concerned the creation of independent labour inspection authorities (separate from the provincial labour departments currently acting as central authorities) at the provincial levels with sufficient human and financial resources. The Committee notes the Government's reiterated indication in its report, in reply to the Committee's previous request, that the provincial governments do not have the necessary resources to set up independent labour inspection entities. In this regard, the Committee also notes from the information in the 2017 annual labour inspection report transmitted by the Government that the provincial labour directorates have a number of functions, which include the enforcement of labour legislation, but also other functions such as the registration of trade unions and the conciliation and settlement of industrial disputes.

In response to the Committee's request to increase the number of labour inspectors in all provinces, the Committee notes the statistics provided by the Government on the number of labour inspectors in all provinces. The Committee notes that there are significant discrepancies in the statistics on the number of labour inspectors contained in the 2017 annual labour inspection report transmitted by the Government, the report sent by the Government in 2018 and the current report of the Government, in view of which it is not possible for the Committee to make an informed assessment as regards the evolution in the number of labour inspectors. ***The Committee urges the Government to pursue its efforts to increase the number of labour inspectors, and to ensure the availability of accurate information on the number of labour inspectors in each province. Recalling that the labour inspection system shall be placed under the supervision and control of a central authority, which is expected to ensure the effective functioning of inspections in each province, the Committee once again requests the Government to provide information on any measures taken or envisaged to strengthen the authorities responsible for labour inspection in the four provinces, including any measures related to the creation of independent labour inspection authorities, or the establishment of separate labour inspection structures in the labour directorates. In this respect, the Committee requests the Government to provide an organizational chart regarding the organization of the labour inspection services in each province, and to provide information on the number of labour***

*inspectors and labour inspections performed in each province, disaggregated by year from 2017 to the present. Lastly, the Committee requests the Government to take the necessary measures to ensure that, in accordance with Article 3(2) of the Convention, additional duties assigned to labour inspectors are not such as to interfere with the effective discharge of their primary duties, as defined in Article 3(1). The Committee accordingly requests the Government to provide further information on the amount of time spent by labour inspectors on additional functions such as the registration of trade unions, conciliation and settlement of industrial disputes, in comparison to their primary duties under Article 3(1).*

*Article 12. Free access of labour inspectors to workplaces.* In its previous comment, the Committee noted that the 2017 Sindh OSH Act restricts the conduct of inspection visits to “any reasonable time” (and only permits entry “at any time” in situations that are or may be dangerous) (section 19), while *Article 12* of the Convention provides that 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 notes the Government’s indication, in response to the Committee’s request to ensure that labour inspectors may enter workplaces freely and without previous notice, that in Sindh and Punjab and all other provinces, pursuant to the Factories Act and the Mines Act, labour inspectors have this right. The Government adds that some inspections may be conducted following prior notice to ensure that records are ready and available during inspections. The Committee notes that while the 2019 Punjab OSH Act contains provisions related to inspection, it does not contain any provisions related to the power of labour inspectors to freely enter workplaces liable to inspection without prior notice.

The Committee recalls the importance of fully empowering labour inspectors to make visits without previous notice in order to guarantee effective supervision, in accordance with *Article 12* of the Convention. With reference to paragraph 266 of its 2006 General Survey, *Labour Inspection*, the Committee also recalls that restrictions placed in law or in practice on inspectors’ right of entry into workplaces can only stand in the way of achieving the objectives of labour inspection as set out in the Convention. *The Committee urges the Government to take the necessary measures to ensure that labour inspectors in all provinces are empowered in law and practice to enter any workplace liable to inspection freely and without previous notice at any hour of the day or night, as provided for in Article 12(1) of the Convention. Noting that the Government has not provided the requested statistics, the Committee once again requests the Government to provide information on the number of inspections conducted with and without prior notice in the provinces of Sindh and Punjab, disaggregated by year from 2017 to the present.*

*Articles 17 and 18. Effective enforcement. Sufficiently dissuasive penalties for labour law violations and for obstructing labour inspectors in the performance of their duties.* The Committee notes that the Government refers, in reply to the Committee’s previous request, to the progress made with respect to draft labour legislation providing for increased penalties in Balochistan, Khyber Pakhtunkhwa and Sindh. The Committee also notes the Government’s reference to the consideration of draft legislation providing for an increase in the level of penalties for the obstruction of labour inspectors in their duties in Balochistan and Khyber Pakhtunkhwa. The Committee also notes that the Government only provides the requested information on cases concerning the obstruction of labour inspectors for the province of Khyber Pakhtunkhwa, where the Government indicates that no such cases have been observed. *The Committee requests the Government to continue to provide information in relation to each of the provinces on the number of violations detected, the number of such violations which resulted in prosecution, and subsequent convictions, and both the number and amount of the fines imposed. The Committee also requests the Government to continue to provide information on the progress made with respect to increasing the level of fines and other penalties for labour law violations and for the obstruction of labour inspectors in their duties in each of the provinces, and to provide a copy of the relevant legislation, once adopted. Lastly, the Committee urges the Government to provide information on cases relating to the obstruction of labour inspectors in their duties, in relation to each of the provinces, including the specific number of instances of obstruction, the number of prosecutions undertaken, their outcome and the specific penalties applied (including the amount of fines imposed).*

*Articles 20 and 21. Publication of an annual inspection report.* The Committee welcomes the 2017 annual report on the work of the labour inspection services communicated to the Office within the time limits prescribed in *Article 20*, containing information on all the subjects listed in *Article 21* for the four provinces and the Islamabad Capital Territory. In this respect, the Committee also notes the Government’s reference to the project of a centralized database in Khyber Pakhtunkhwa, which would contain data about workplaces, the number of workers employed therein, as well as compliance with labour legislation. *Welcoming this positive development, the Committee trusts that the Government will continue to regularly publish and communicate to the ILO the annual labour inspection reports. The Committee requests the Government to continue to provide information on any measures undertaken in each of the provinces for the collection of labour inspection data.* Further, the Committee draws the Government’s attention in this regard to the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81) concerning the type of information that should be included in the annual labour inspection reports.

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 2020.]*

## Poland

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1995)**

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1995)**

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 takes note of the observations of the Independent and Self-Governing Trade Union “Solidarnosc” received on 19 August 2019, and the Government’s reply to these observations received on 26 September 2019.

*Articles 2(1), 5(a), 6, 12(1) and 16 of Convention No. 81 and Articles 4, 6, 12, 16(1) and 21 of Convention No. 129. Coverage of workplaces by labour inspection. Restrictions on collaboration between labour inspection officials and other public institutions and on inspectors entering workplaces freely.* The Committee previously noted the limitations on the work of the labour inspectorate in the Act on Freedom of Economic Activity (AFEA) related to prior authorization by the inspection authority, as well as practical difficulties it posed in inspecting workplaces with multiple employers and the conduct of joint inspections. The Committee notes that the Entrepreneurs’ Law, adopted in 2018, replaced the AFEA. It notes that pursuant to sections 48(1) and 54(1) of the Entrepreneurs’ Law, prior notice to the entrepreneur is required and the undertaking of simultaneous controls of an entrepreneur’s activities are not permitted, but that sections 48(11)-(1) and 54(1)-(8) state that these restrictions do not apply if the inspection is carried out on the basis of a ratified international agreement. With respect to authorization, the Committee takes note of the Government’s indication that prior authorization by the inspection authority seeks to ensure transparency, reliability, validity, and legitimacy of public administrative bodies. It notes that pursuant to section 49(1) and (2) of the Entrepreneurs’ Law, labour inspectors are empowered to conduct controls without prior presentation of the authorization from the inspection authority only in cases where control activities are necessary to prevent a crime or offence or securing evidence that such an offence has been committed, or when inspections are justified by a direct threat to life and health or environment, so long as such authorization is presented later to the entrepreneur within three days from the date of initiation of a control. Furthermore, the Committee notes that the Entrepreneurs’ Law empowers inspectors to carry out control activities only during working hours (section 51(1)).

The Committee recalls that according to *Article 12* of Convention No. 81 and *Article 16* 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 requests the Government to ensure that the Entrepreneurs’ Law is amended to provide without qualification that labour inspectors with proper credentials are empowered to enter freely any workplace liable to inspection, in accordance with Article 12(1) of Convention No. 81 and Article 16(1) of Convention No. 129. Noting the absence of the information, the Committee once again requests the Government to indicate whether the conduct of joint inspections with other public authorities, including the State Sanitary Inspection and the Road Transport Inspectorate, is possible under the Entrepreneurs’ Law.***

*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, and labour inspection activities for the protection of migrant workers in an irregular situation.* The Committee takes note of the Government’s indication, in reply to its previous request, that the national labour inspectorate (NLI) supervises and controls compliance with legal provisions related to OSH and the legality of employment of both Polish citizens and migrant workers. The NLI’s controls cover visas and other residence permits or work permits, the conclusion of written employment contracts or civil law contracts, and compliance with labour legislation. The NLI predominantly targets entities where migrant workers from outside the EU/EEA and Switzerland are engaged in work due to the high risk of irregularities. Controls are initiated based on the results of past controls, or referrals and complaints lodged by other institutions, including the Border Guard. The Government indicates that the NLI’s controls can also be initiated based on complaints made by migrant workers, predominantly concerning non-payment of wages or the lack of written employment contracts. Moreover, the NLI’s controls focus on temporary employment agencies, as well as employers sending workers to Poland and employers in Poland posting workers to other countries.

The Committee notes the statistics provided by the Government indicating that in 2018, a total of 7,817 controls were undertaken on the legality of employment of migrant workers which detected labour law violations related to the payment of wages and other benefits (related to 1,555 migrant workers), medical examinations (780 migrant workers), OSH trainings (1,370 migrant workers), records of working hours (662 migrant workers), and other working time regulations including rest periods (569 migrant workers). These inspections also detected a lack of work permits (related to 3,101 migrant workers), employers’ non-adherence to the terms and conditions under work permits or residence permits (related to 1,087 migrant workers), and violations related to employers’ obligation to conclude written contracts (916 migrant workers). The Government indicates that labour inspectors issued decisions or oral orders to correct these violations. It further indicates that infringements of labour law provisions result in notifications by the NLI to the social insurance institution, the head of the customs and revenue office, and the police or the Border Guard. The Committee also notes with **concern** that, according to the 2018 annual labour inspection report, available on the website of the NLI, the NLI performed 176 joint inspections with the Border Guard, and that the NLI sent 711 notifications to the Border Guard of cases regarding the illegal

performance of work by migrant workers. The same report also indicates that the Chief Labour Inspector signed a new cooperation agreement with the Chief Border Guard to cope with a dramatic increase in the number of migrant workers from outside the EU.

The Committee notes that the observations of Solidarnosc refer to, among the new tasks undertaken by the inspectors, the increased control activity on the legality of employment of migrant workers *The Committee urges the Government to take measures to ensure that the functions assigned to labour inspectors do not interfere with the main objective of labour inspectors, which is to provide for the protection of workers in accordance with Article 3(1) of Convention No. 81 and Article 6(1) of Convention No. 129. In this respect, it requests the Government to provide information on the manner in which it ensures that cooperation with other authorities such as the Border Guard does not prejudice in any way the authority and impartiality which are necessary to inspectors in their relations with employers and workers, in accordance with Article 3(2) of Convention No. 81 and Article 6(3) of Convention No. 129. The Committee also requests the Government to indicate the manner in which the NLI ensures the enforcement of employers' obligations with regard to the statutory rights of migrant workers, including those in an irregular situation. It also requests the Government to provide information on the orders issued by labour inspectors related to labour law violations (such as orders for establishing an employment contract, payment of overdue wages or other benefits resulting from their work) concerning migrant workers in an irregular situation, and the results obtained from such orders.*

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

## Portugal

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1962)**

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 1983)**

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 made by the General Confederation of Portuguese Workers–National Trade Unions (CGTP–IN), the General Workers' Union (UGT) and the Confederation of Portuguese Business (CIP), communicated with the Government's report.

*Article 6 of Convention No. 81 and Article 8 of Convention No. 129. Status and conditions of service of labour inspectors.* The Committee takes note of the information provided by the Government in its report in response to the Committee's previous request concerning overtime. It also takes note of the Government's indication that the career of labour inspectors, as well as their development, is provided for in Decree-Law No. 112/2001, which establishes the legal framework and defines the structure of the inspection careers of the Public Administration. In addition to the base salary provided for in that Decree-Law, inspectors are also entitled to a supplement for the exercise of the inspection function amounting to 22.5 per cent of the base salary. The Committee notes the Government's indication that pursuant to this Decree-Law, a new career and remuneration system will be implemented for labour inspectors. In this regard, the Committee takes note that the UGT indicates that it has opposed the worsening of working conditions for labour inspectors and their lack of career prospects (which prevents progression). The union further indicates that, in 2018, a tripartite agreement was signed called "Combating precariousness and reducing labour segmentation and promoting greater dynamism in collective bargaining", which includes measures aimed at strengthening the conditions of service of the Working Conditions Authority (ACT). The UGT indicates that the agreement provides for measures to strengthen conditions of service at the ACT, the number of labour inspectors, the information systems of the ACT and mechanisms for hearing the views of the social partners. *The Committee requests the Government to continue to provide information on measures taken to improve the conditions of service of labour inspectors, including the results obtained through the implementation of the 2018 tripartite agreement. In this respect, it requests information on the measures taken, including within the context of the new career and remuneration system, to ensure that the remuneration levels and career prospects for labour inspectors are commensurate with that of other public officials exercising similar functions. In addition, the Committee requests information on stability of employment for labour inspectors (excluding management positions), including information on the proportion of inspectors with two years, five years, and more than eight years on the job.*

*Articles 9 and 10 of Convention No. 81 and Articles 11 and 14 of Convention No. 129. Technical experts and sufficient number of labour inspectors.* In its previous comments, the Committee welcomed the Government's indication that the ACT was in the process of recruiting 117 labour inspectors. The Committee takes note of the Government's indication that 117 labour inspectors mentioned previously are still in the process of being recruited and that the total number of labour inspectors has decreased from 314 in 2016 to 303 in 2017 (compared with 359 inspectors in 2012). It further notes the information available on the website of the Government that in September 2019, an additional 53 new inspectors were recruited, and that an additional 80 inspectors were scheduled to be recruited by the end of 2019. The Committee also notes the Government's indication that, in addition to the labour inspectors, the ACT has a total of 505 support staff (as compared to 514 in 2016) and that a number of competitions have been opened for the recruitment of senior technicians. In this regard,

the Committee takes note that the CGTP-IN states that both the number of labour inspectors and support staff are still insufficient to ensure the effective exercise of the functions of the inspection service. The CGTP-IN also indicates that the ACT does not ensure the presence of at least one occupational safety and health technician in each regional office. ***The Committee urges the Government to pursue its efforts to ensure the recruitment of a sufficient number of labour inspectors to secure the effective discharge of the duties of the inspectorate. It requests the Government to continue to provide information on the progress made in this respect and any training or other measures taken to facilitate the rapid integration of these new inspectors. Lastly, it requests the Government to provide information on the measures taken to ensure that duly qualified technical specialists are associated with the work of inspection.***

*Article 16 of Convention No. 81 and Article 21 of Convention No. 129. Adequate frequency and thoroughness of inspections to secure compliance.* In response to its previous request concerning an inspection strategy pursued to achieve a satisfactory coverage of workplaces by sufficiently thorough labour inspection visits, the Committee notes the Government's indication that the definition of inspection priorities is based on: (i) the monitoring of undertakings where accidents at work have occurred or occupational diseases have been detected; and (ii) consideration of the number of workers potentially covered by the situations considered to be the most serious for their safety or physical and mental health. The Government indicates that the new information system will contribute to a more efficient and effective planning of the inspection action. The Government states that, in this process, the employers' and workers' organizations represented on the ACT's Consultative Board are consulted, having agreed on the Iberian Campaign for the Prevention of Accidents at Work (2016–18) and the National Campaign for Safety and Health for Temporary Workers (2016–18).

The Committee notes that the CGTP-IN asserts that the number of inspection visits has decreased dramatically over the years, as well as the number of workplaces visited and the number of workers covered. In this regard, the Committee notes the substantial decrease in the number of inspections (from 90,758 in 2011 to 37,482 in 2017), the number of undertakings inspected (from 80,159 in 2011 to 24,584 in 2017) and the number of workers covered (from 609,343 in 2011 to 317,838 in 2017). However, it also notes that over the same period, the number of violations detected increased from 17,607 in 2011 to 24,352 in 2017. In this regard, the Committee notes that the Government indicates that in 2013, there was a change in the statistical criteria for collecting information on the number of inspection visits and workplaces visited to avoid inflating the data by counting a visit to the same workplace that covered different subjects as a new visit. The Government further states that the data on the outcome of inspection visits indicate that there have been no significant changes in the number of penalties applied. ***Noting these indications, and recalling the importance of ensuring 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 provide further information on the reasons for the decrease in the overall number of labour inspections undertaken and workers covered. In this respect, the Committee requests the Government to continue to provide information on the number of inspections that are planned versus the number that are reactive to complaints or accidents; the average or normal duration of planned versus reactive inspections; and the nature and number of violations identified and sanctions pursued for each type of inspection.***

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

## Qatar

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1976)***

*Technical cooperation.* Following its previous comments, the Committee welcomes the information in the Government's report concerning the progress achieved in the context of the technical cooperation programme between the Government and the ILO (2018–20), particularly the second pillar which concerns improving the labour inspection and occupational safety and health (OSH) systems. In this respect, the Committee notes with *interest* the adoption of the labour inspection policy in April 2019. This policy was developed on the basis of the Assessment of the Qatar Labour Inspection System, prepared by the Ministry of Administrative Development, Labour and Social Affairs and the ILO. The policy includes the collection of data, the implementation of an evidence-based strategy and measures to ensure transparency and accountability of inspections. ***The Committee requests the Government to continue to provide detailed information on the measures taken in the context of the ongoing technical cooperation to strengthen the implementation of the Convention, including on the implementation of the labour inspection policy.***

*Articles 3, 12 and 16 of the Convention. Sufficient number of labour inspections and coverage of workplaces.* The Committee previously urged the Government to pursue its efforts with respect to strategic planning and the development of a modern strategic inspection plan. In this respect, the Committee notes with *interest* the Government's indication that in March 2019, the strategic unit of the labour inspectorate became operational and began working on developing a modern strategic inspection plan. The Government indicates, in response to the Committee's previous request on the establishment of priorities, that priorities and objectives for inspections have been identified related to recurrent issues, particularly the prevention of falls from heights and the payment of wages.

The Committee notes the Government's statement that in 2018, 21,178 undertakings were inspected, with a total of 43,366 inspection visits (compared with 44,550 inspections conducted in 2016). This included 19,328 labour inspection visits, 22,736 OSH inspection visits, and 1,302 inspection visits on wage protection. The Committee also notes the information provided in response to its previous comments, that most inspections on labour and on OSH did not detect any

violations, but that 100 per cent of the wage protection inspections disclosed violations. The inspection visits resulted in: 1,419 infringement reports; 6,548 warnings to remedy an infringement; 797 suspensions of transactions with the Ministry of Administrative Development, Labour and Social Affairs; and 3,524 cases where guidance was provided. The Government's report indicates that approximately 70 per cent of visits did not detect any violations (31,078 inspections, all in the labour and OSH areas). The Committee also notes the statement in the Assessment of the Qatar Labour Inspection System that at present, employers are sometimes given prior notice of inspections, either because the inspectors require more information on the location of the worksite, or to allow employers time to gather relevant documentation. The Assessment states that the practice of informing employers of imminent visits must cease, as the effectiveness of an investigation frequently depends on the unpredictability of the visit. ***Noting once again that most OSH and labour inspection visits did not detect any violations but that all wage protection visits did, the Committee requests the Government to provide information on the most frequent categories of violation in the area of wage protection. It also requests the Government to continue to provide information on the activities of the strategic unit, including the finalization of the modern strategic inspection plan and its implementation, as well as progress achieved with respect to the priorities and objectives established, including particularly on wages. Recalling that labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice any workplace liable to inspection in accordance with Article 12, it requests the Government to continue to provide information on the total number of inspections undertaken, as well as on the outcome of these visits, and to specifically indicate the number of these inspections that were unannounced and those that were undertaken with prior notice.***

*Articles 5(a), 17, 18 and 21(e). Effective cooperation between the labour inspectorate and the justice system, legal proceedings and effective enforcement of adequate penalties.* The Committee previously noted that labour inspectors, upon detecting non-compliance, draw up infringement reports which are then referred to the courts for further action. It noted that the outcome of most inspections was no further action. It also noted that the technical cooperation programme included a review of relevant legislation in order to strengthen the enforcement powers of labour inspectors.

In this respect, the Committee welcomes the Government's indication that plans are under way, in the context of the ongoing technical cooperation, to strengthen enforcement mechanisms and to provide labour inspectors with enhanced enforcement powers. The Government states that labour inspectors will be provided with clear guidance to follow, including the identification of situations requiring immediate action, such as the suspension of activities or the adoption of other stringent enforcement measures to address non-compliance. The Committee also notes that the number of infringement reports referred to courts continued to rise (from 676 in 2015 to 1,142 in 2016 and to 1,419 in 2018). It once again observes that no information on the outcome of these cases has been provided, but notes the Government's statement, in reply to the Committee's previous request, that work is under way to provide these statistics. The Committee further notes the statement in the Assessment of the Qatar Labour Inspection System that the Labour Inspection Department does not have readily available information on penalties, fines or imprisonment imposed by the judiciary and that inspectors had expressed frustration with the judiciary's failure to inform them of the outcome after their referral of a company for court proceedings. In this respect, it notes with ***interest*** the Government's reference to a Memorandum of Understanding between the Ministry of Administrative Development, Labour and Social Affairs and the Supreme Judicial Council, which aims to establish electronic information sharing on the cases referred to courts, the judgments handed down, and relevant appeals. ***The Committee urges the Government to pursue its efforts, in the context of the ongoing technical cooperation programme, to strengthen the effectiveness of enforcement mechanisms, including measures to provide enhanced enforcement powers to labour inspectors. It requests the Government to continue to provide specific information on the measures taken to promote effective collaboration between the labour inspectorate and the judicial system, including the implementation of the Memorandum of Understanding. It once again urges the Government to provide information on the outcome of cases referred to the judiciary by labour inspectors through infringement reports, including the penalties imposed and fines collected by virtue of the Labour Law and the legal provisions to which they relate.***

*Articles 5(a), 9 and 13. Labour inspection in the area of OSH.* The Committee previously noted that, pursuant to section 100 of the Labour Law, inspectors have the authority to prepare an urgent report, to be referred to the Minister, if they detect an imminent danger in the workplace. These reports will result in the Minister issuing a decision of partial or total closure until the hazard is removed. It requested information on the number of such reports issued, as well as on the number of occupational accidents, including fatal occupational accidents, and the occupation or sector concerned.

The Committee notes the information provided by the Government in response to its previous request that, in 2018, 22,736 OSH inspections were undertaken (compared with 14,526 such visits in 2016). It notes the information provided on a number of measures taken by the labour inspectorate related to improving OSH, including: (i) the involvement of the labour inspectorate in the development of a national OSH policy, which will cover data analysis and collection; (ii) preventative activities undertaken by the OSH Department of the labour inspectorate to address heat stress, including targeted inspections on hours of work during the summer; (iii) awareness-raising workshops and an OSH conference to celebrate national OSH day; and (iv) further training for inspectors on OSH issues. The Government indicates that the construction sector remains a priority, and that in the context of the Memorandum of Understanding with Building and Wood Workers' International (BWI), 13 joint inspections were carried out. The Committee notes with ***concern*** the Government's indication that the number of fatal occupational accidents continued to increase, from 117 in 2017 to 123 in 2018, and it observes that the statistics provided on accidents are not disaggregated by occupation or sector. It also notes an

absence of information on the implementation in practice of closure decisions pursuant to section 100 of the Labour Law, and notes the information in the Assessment of the Qatar Labour Inspection System that the approval process from the Minister to halt activities usually takes two to three days. *The Committee urges the Government to take immediate measures to address the increase in the number of fatal occupational accidents, including further measures to strengthen the capacity of labour inspectors with respect to the monitoring of OSH, particularly in the construction sector. The Committee requests the Government to continue to provide information on the number of occupational accidents, including fatal occupational accidents, and to ensure that this information is disaggregated by occupation or sector. It also requests the Government to continue to provide information on the number and type of OSH inspection visits undertaken, the number of violations detected, the number of infringement reports issued and, in particular, the information previously requested concerning the follow-up given by the judicial authorities to such infringement reports. It further requests the Government to continue to provide information on the joint inspections undertaken with the BWI, including the modalities of these inspections and how the targets of these inspections are selected. Lastly, the Committee once again requests the Government to provide information on the implementation in practice by labour inspectors of the power to make orders requiring measures with immediate executory force in the event of imminent danger to the health or safety of the workers, indicating the number of urgent reports and closure decisions issued under section 100 of the Labour Law, disaggregated by occupation and sector.*

*Articles 7 and 10. Recruitment and training of labour inspectors and the effective discharge of their duties.* The Committee takes due note that one of the focuses of the labour inspection policy is the establishment of a learning and development framework for labour inspectors. In this regard, the Committee notes with *interest* the detailed information provided by the Government on the development of a four-year strategic training plan 2019–22 by the labour inspectorate's strategic unit, which includes three training tracks. It also notes the information provided for 2018 on the number of study visits and training courses, their content, and the number of participants. The Committee further notes the Government's indication that, as part of the 2020 training plan, it will strengthen the capacity of inspectors in the preparation and writing of reports, and concerning the issuance of infringement reports. In addition, it notes the Government's indication, in response to the Committee's previous request on recruitment, that it plans to develop specific standards, qualifications and requirements for newly recruited inspectors, and that new inspectors will follow a specialized introductory training track. Lastly, the Committee notes the information in the Government's report that there are 12 interpreters who work with inspectors. It notes in this respect the statement in the Assessment of the Qatar Labour Inspection System that the number of interpreters working with the inspectorate should be increased. *The Committee requests the Government to continue to pursue its efforts to ensure that inspectors receive adequate training for the performance of their duties. In this respect, it requests the Government to provide information on the implementation of the strategic training plan 2019–22, specifying the number of labour inspectors that received training, the duration of such training and the subjects covered. It requests the Government to continue to provide information on its planned development of standards for the recruitment of inspectors, as well as the introductory training provided to new inspectors. The Committee further requests the Government to continue to provide information on measures taken to ensure the recruitment of labour inspectors and interpreters able to speak the languages of migrant workers.*

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

## Russian Federation

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)***

The Committee notes the observations made by the Confederation of Labour of Russia (KTR), received on 26 September 2019. *The Committee requests the Government to provide its comments in this respect.*

*Articles 3(1), 6, 10 and 16 of the Convention. Number of labour inspectors and coverage of workplaces by labour inspection visits.* In its previous comments, the Committee observed that the number of labour inspectors had continuously decreased over a number of years from 2,680 to 2,102 between 2012 and 2016. It also noted from the 2016 report of the Federal Service of Labour and Employment (Rostrud) that the number of labour inspectors was insufficient to achieve sufficient coverage of workplaces by labour inspection visits, which often resulted in the verification and control of documents from the offices of the Rostrud rather than the conduct of actual labour inspection visits in workplaces. The Committee notes with *concern* from the information provided by the Government in its report that the actual number of labour inspectors continued to decrease to 1,835 inspectors in 2018. The Committee notes from the 2018 report of the Rostrud that the turnover of staff affects the efficiency of labour inspection activities. *The Committee urges the Government to take the necessary measures to guarantee the recruitment of an adequate number of labour inspectors to ensure that workplaces are inspected as often and as thoroughly as is necessary to enable the effective application of the relevant legal provisions. It requests the Government to continue to provide information on the number of labour inspectors. The Committee also requests information on the conditions of service of labour inspectors (including salary, benefits, and career prospects) in comparison to public servants exercising similar functions within other government services (such as tax inspectors and the police) as well as on the reasons for the high attrition rate of labour inspectors.*

*Articles 7, 17 and 18. Enforcement of labour law provisions.* In its previous comment, the Committee noted a disparity between the number of cases reported by the labour inspectorate, the number of investigations initiated and the

number of convictions. It noted the Government's indication that criminal cases were often not pursued as criminal intent could not be established. With respect to administrative cases, the Committee noted the Government's indication that they were sometimes not pursued due to the lack or incomplete nature of documents in non-compliance reports prepared by the labour inspectorate and that decisions on the closure of administrative cases were often communicated too late for the labour inspectorate to submit appeals within the prescribed time limits.

The Committee notes that, based on the information provided by the Government, there is still a significant discrepancy between the number of files sent to the prosecutor's office by the federal labour inspectorate (7,580) and the number of criminal cases instituted (518), and that the Government's report is silent on the number of actual convictions. The Committee also notes that there have been a significant number of cancellations of acts of inspections, orders, decrees, conclusions and other decisions of labour inspectors by the judicial authorities in 2018 (1,206). ***The Committee once again requests 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 the concrete measures taken to address the deficiencies identified, such as training for labour inspectors on the establishment and completion of non-compliance reports, including the collection of the necessary evidence; the improvement of communication and coordination activities with the judiciary on the required evidence to establish and effectively prosecute labour law violations, as well as 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, including the relevant legal provisions, the investigations and prosecutions initiated, and the penalties imposed as a result. The Committee also requests information on the reasons for the significant number of cancellations of the decisions taken by labour inspectors.***

*Articles 12 and 16. Labour inspection powers and prerogatives.* In its previous comment, the Committee noted that section 357 of the Labour Code only gives labour inspectors the power to interview employers (and not workers) and that Federal Law No. 294-FZ, the Labour Code and Regulation No. 875 provide for numerous restrictions on the powers of labour inspectors, including the free initiative of labour inspectors to undertake inspections without prior notice (sections 9(12) and 10(16) of Law No. 294-FZ), and the free access of labour inspectors to workplaces (without an order from a higher authority) at any hour of the day or night (sections 10(5) and 18(4) of Law No. 294-FZ). It also noted limitations with regard to the grounds on which unscheduled inspection visits may be undertaken (section 360 of the Labour Code, section 10(2) of Law No. 294-FZ and section 10 of Regulation No. 875). The Committee further noted that pursuant to section 19(6)(1) and (2) of the Code of Administrative Offenses, labour inspectors may incur administrative liability where they fail to observe certain of these restrictions, for example where they undertake labour inspections on grounds other than those permitted in law. It urged the Government to take the necessary measures to bring these legislative Acts into compliance with *Articles 12 and 16* of the Convention.

The Committee notes the Government's reference to the introduction of a risk-based approach in the work of the labour inspection services. In this respect, it notes that resolution No. 197 of February 2017 on the introduction of changes to certain acts of the Russian Federation, provides that depending on the assessment of risks, planned inspections may not be carried out more often than: (i) once every two years for workplaces considered to be high-risk; (ii) once every three years for workplaces considered to have a significant risk; (iii) once every five years for workplaces considered to have medium risk; and (iv) once in six years for workplaces to be of moderate risk. Moreover, for workplaces considered to have a low level of risk, planned inspections are not permitted. In this respect, the Committee notes that pursuant to the amendments introduced by Federal Law No. 480-FZ of 25 December of 2018 to the Federal Law No. 294-FZ, inspections cannot be scheduled for low-risk small and medium enterprises. The Committee also notes that in 2018, 37 cases were brought under section 19(6)(1) against officials of the state labour inspectorates for violating the requirements regarding the procedure for state supervision. ***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 Articles 12 and 16 of the Convention. Particularly, it urges the Government to ensure that labour inspectors are empowered to: (i) make visits without previous notice, in line with Article 12(1)(a) and (b) of the Convention; (ii) to interrogate both employers and staff, in accordance with Article 12(1)(c)(i); and (iii) to allow for the undertaking of labour inspections as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions, in accordance with Article 16. The Committee also requests the Government to provide information on the impact of the risk-based inspection system on the coverage of workplaces by labour inspection. In this regard, it requests that the Government provide statistics on the number of labour inspections undertaken in each year since the implementation of this system, indicating the number of inspections in small, medium-sized and large enterprises. The Committee requests the Government to provide further information on the cases brought under section 19(6)(1) of the Code on Administrative Offenses, 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.***

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 2020.]***

## Saint Vincent and the Grenadines

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1998)**

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 2020, 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.

*Legislation.* The Committee notes with interest that an Occupational Safety and Health (OSH) Bill has been developed in cooperation with the ILO, which addresses several of the previous points raised by the Committee (such as the powers of labour inspectors provided for under *Article 13 of the Convention*, the notification of the labour inspectorate of industrial accidents and cases of occupational diseases provided for under *Article 14*, etc.), and that relevant national consultations with various stakeholders, including employers' and workers' representatives, are currently being held. **The Committee asks the Government to continue to keep the ILO informed of any progress made in the adoption of this Bill and to communicate a copy of the relevant OSH Act, once adopted. It expresses the hope that this OSH Act will give full effect to the Convention.**

*Articles 20 and 21 of the Convention. Annual report on the work of the labour inspection services.* The Committee notes that, once again, no annual labour inspection report has been received by the Office, nor has any statistical information been communicated by the Government. It notes the Government's indication according to which ongoing technical assistance is provided by the Office for the implementation of the Labour Market Information System (LMIS) which, as the Committee had previously noted, contains statistics on labour inspection and is intended to be used to record and generate reports on labour inspections. It also notes the Government's indications that comprehensive statistical labour inspection reports are expected to be published separately as from 2014, provided that inspection data are correctly and regularly entered in the LMIS database. **The Committee requests the Government to make every effort, including the training of staff in the use and operation of the LMIS, to allow the central labour authority to publish and communicate to the ILO, together with its next report due in 2016, an annual labour inspection report containing full information as required under Article 21(a)–(g) of the Convention.** The Committee recalls also that the Government could make use of the guidance provided in Paragraph 9 of the Labour Inspection Recommendation, 1947 (No. 81), concerning the type of information that should be included in a labour inspection 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.**

## San Marino

### **Labour Statistics Convention, 1985 (No. 160) (ratification: 1988)**

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 2020, 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.

*Legislation.* **The Committee requests the Government to indicate any new legal provision relating to matters covered by the Convention and international standards used in designing or revising the concepts, definitions and methods used in the collection, compilation and publication of the statistics required thereby.**

*Article 2 of the Convention.* **The Committee asks the Government to provide information on the application of the latest international standards and to specify, for each Article of the Convention for which the obligations were accepted (that is, Articles 7, 8, 9, 10, 11, 12, 13, 14 and 15), which standards and guidelines are followed.**

*Article 7.* **The Committee requests the Government to indicate the concepts, definitions and methodology used to produce the official estimates of labour force, employment and unemployment in San Marino.**

*Article 8.* **The Committee invites the Government to provide methodological information on the concepts and definitions relating to the register-based labour force statistics in pursuance of Article 6 of this Convention be provided to the ILO.**

*Article 9(1).* **Noting that the annual statistics of average earnings and hours actually worked are not yet broken down by sex, the Committee asks the Government to take necessary steps to this end and to keep the ILO informed of any future developments in this field.**

*Article 9(2).* **The Committee asks the Government to ensure that statistics covered by these provisions are regularly transmitted to the ILO.**

*Article 10.* **The Committee asks the Government to take necessary steps to give effect to this provision and to keep the ILO informed of any developments in this field.**

*Article 11.* The Committee notes that no information is available on the structure of compensation of employees by major components. **It therefore asks the Government whether it is possible to compile such statistics for more than four groups in manufacturing, and to communicate these to the ILO as soon as practicable, in accordance with Article 5 of this Convention.**

**The Committee also asks the Government to indicate the measures taken to produce, publish and communicate to the ILO specific methodological information on the concepts, definitions and methods adopted to compile statistics of average compensation of employees in pursuance of Article 6.**

*Article 12.* **The Committee invites the Government to provide the methodological information on the new consumer price indices (CPI) (base December 2002 = 100) in pursuance of Article 6 of this Convention.**

*Article 13.* The Committee notes that detailed statistics on household expenditures are regularly published by the Office of Economic Planning, Data Processing and Statistics in the annual publication, *Survey on the consumption and the San Marino families life style*. However, no information is available in this publication about the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics. **The Committee invites the Government to:**

- (i) *indicate whether the representative organizations of employers and workers that were consulted when the concepts, definitions and methodology used were designed (in accordance with Article 3); and*
- (ii) *communicate a detailed description of the sources, concepts, definition and methodology used in collecting and compiling household income and expenditure statistics as required under Article 6.*

*Article 14. The Committee requests the Government to provide more comprehensive information about the statistical system, with particular reference to the concepts and definitions used for statistics on occupational injuries.*

*Article 15. As no data on strike and lockout (rates of days not worked, by economic activity) were provided, the Committee invites the Government to communicate data in accordance with Article 5 of this Convention.*

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

## Saudi Arabia

### Labour Inspection Convention, 1947 (No. 81) (ratification: 1978)

*Articles 3(1) and (2) of the Convention. Functions of labour inspectors. 1. Additional functions of labour inspectors concerning migrant workers.* The Committee previously noted that most labour inspection visits aimed at verifying the legality of the employment status of migrant workers. It subsequently noted a regularization campaign concerning undocumented migrant workers which enabled some workers to regulate their residence situation without being penalized under immigration law. However, noting an absence of information, the Committee reiterated its request to provide detailed information on the time and resources of the labour inspectorate spent on activities in the area of verifying the legality of employment compared with activities spent on securing the enforcement of legal provisions relating to conditions of work and the protection of workers.

The Committee notes the Government's indication in response in its report that the Ministry of Labour and Social Development (MoLSD) monitors compliance with the Labour Law regardless of whether workers are nationals or non-nationals, or whether they are in a regular or irregular situation. The Government indicates that, pursuant to section 196 of the Labour Law, the primary role of labour inspectors is to monitor the implementation of the Labour Law and to provide employers and workers with information and technical guidance. In this respect, the Committee notes that work permits for migrant workers are governed by the Labour Law (sections 32-41). It also notes the Government's indication that in the first quarter of 2019, 1,269 infringements were detected relating to employers employing non-nationals without a work permit from the MoLSD (section 33 of the Labour Law), which resulted in a fine of 20,000 Saudi riyals (SAR) for the employer per worker employed. The Committee recalls that, pursuant to *Article 3(1) and (2)* of Convention No. 81, 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 urges 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, in accordance with Article 3(1), to secure the enforcement of the legal provisions relating to conditions of work and the protection of workers while engaged in their work. It requests the Government to provide detailed information on the time and resources of the labour inspectorate spent on activities verifying the legality of employment compared with activities spent on securing the enforcement of legal provisions relating to conditions of work and the protection of workers. The Committee also requests the Government to indicate the measures taken to ensure that migrant workers who are found to be in an irregular situation, pursuant to section 33 of the Labour Law, are granted their due rights, such as the payment of outstanding wages or access to proper employment contracts.***

*2. Protection of the rights of migrant workers, including in relation to the payment of wages and compensation for workplace injuries.* In its previous comments, the Committee welcomed the Government's indication that it guarantees the payment of outstanding entitlements for migrant workers in an irregular situation before their return to their country of origin, and asked for relevant statistics in this regard. The Committee also requested the Government to indicate how labour inspectors assist migrant workers in the event of the violation of their rights, including with respect to matters related to abuse, discrimination, passport confiscation and contract substitution.

The Committee notes the Government's indication in its reply that, at the end of December 2018, the compliance rate of the wage protection system reached 75 per cent, involving more than 4.3 million workers and, in addition, the department of wage settlement had so far recovered approximately SAR143,664,126 in wage arrears for 3,960 workers. Concerning the role of labour inspectors in assisting migrant workers in the event of violation of their rights, the Committee notes the Government's reference in its report that, pursuant to section 6 of the Implementing Regulations of the Labour Law No. 70273 of 2018, an employer is prohibited from retaining the passport, residence permit or medical insurance card of a non-Saudi Arabian worker. The Government states that the occurrence of violations of section 6 is limited: in the first quarter of 2019, a total of 143 violations were detected involving employers who retained passports, residence permits or medical insurance cards, which resulted in the imposition of fines amounting to SAR5,000 (US\$1,300) for each worker concerned. The Committee also notes that for these violations, infringement reports are prepared in order to verify that there are no other indications pointing to the existence of the crime of trafficking in persons. ***The Committee requests the Government to provide statistical information on the number of inspections, violations, warnings and other enforcement measures taken, and penalties imposed, disaggregated by nationals and non-nationals, classified by the legal provisions to which they relate, including section 6 of the Implementing Regulations of the Labour Law No. 70273 of 2018 and the new Anti-***

**Harassment Act. The Committee also once again requests the Government to provide statistical information on the payment of outstanding entitlements to migrant workers (including compensation for workplace injuries or the payment of wages) before their return to their country of origin.**

*Articles 3, 7, 10, 11 and 16. Number of labour inspectors and inspection visits. Material means available to the labour inspection services.* The Committee welcomes the information provided by the Government, in reply to its previous request, that there has been an increase in the number of labour inspectors, from 548 in 2017 to 880 in 2018 (of which 131 were women). In addition, more than 570 vehicles, 500 tablets, and 940 data SIMs were acquired to support inspection visits. The Committee also notes that the total number of inspection visits in 2018 reached 388,788, up from 148,312 in 2015, and these inspections detected 85,538 violations. Moreover, the Committee notes the Government's initiative to improve the quality of inspection procedures, using technology and applications, such as an electronic platform that allows individuals to report on violations related to the labour market and an online self-assessment system containing tools to help enterprises understand labour standards and regulations with a view to facilitating voluntary compliance and ensuring timely payment of wages. **The Committee requests the Government to continue to provide information on the manner in which it ensures that workplaces are inspected as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. Noting the number of recently hired inspectors, the Committee requests that the Government continue to take steps to ensure that new inspectors are adequately trained for the performance of their duties, and provide information on the ongoing training of labour inspectors (including on the number of labour inspectors that received training and the subjects covered). The Committee also requests the Government to provide further information on the connection between the self-assessment system and the labour inspectorate, indicating whether information from this system is submitted to the labour inspectorate.**

*Articles 5(a), 17 and 18. Effective cooperation between the labour inspectorate and the justice system, legal proceedings and effective enforcement of adequate penalties.* The Committee previously requested the Government to provide detailed information on the number of violations detected and their outcome, including infringement reports issued, referrals to the judicial authorities, and the penalties imposed. Noting the ILO assessment undertaken indicating that the courts reject most of the infringement reports, the Committee also asked for information on any difficulties encountered in the enforcement of penalties for the violations detected. The Committee notes the Government's indication in its reply that it is up to the discretion of labour inspectors to issue advice or guidance, verbal or written warnings or prepare infringement reports. It also notes that, in the first quarter of 2019, labour inspectors issued 22,738 warnings. The Committee further notes the Government's indication that the inspection bodies do not encounter any difficulties in enforcement action for the violations detected. It also notes the Government's indication that 560 violations were detected related to an employer's failure to facilitate the tasks of the Ministry's inspectors or staff of the competent authority, for failure to collaborate with them so as to implement the provisions of the Labour Law. **The Committee urges the Government to provide information on the number of infringement reports issued and referrals to the judicial authorities, as well as the outcome of cases referred. It further asks the Government to indicate the measures taken to promote effective cooperation between the labour inspection services and the judicial system. Lastly, it requests the Government to provide further information on the measures to ensure the effective enforcement of adequate penalties for obstructing labour inspectors in the performance of their duties, in accordance with Article 18 of the Convention.**

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

## Serbia

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 2000)**

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2000)**

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 International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) on the application of these Conventions, received on 29 August and 1 September 2019, respectively, and the observations of the Confederation of Autonomous Trade Unions of Serbia (CATUS), the Trade Union Confederation "Nezavisnost", and the Serbian Association of Employers (SAE), communicated with the Government's report on the application of these Conventions.

### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

*Article 12(1)(a) of Convention No. 81 and Article 16(1)(a) of Convention No. 129. Free entry of labour inspectors to workplaces without prior notice.* The Committee previously noted restrictions on the powers of inspectors in the Law on Inspection Oversight No. 36/15: sections 16 and 17 of the Law require three days prior notice for most inspections and a written inspection warrant (except in emergency situations) specifying, among other things, the purpose of the inspection and its duration. Section 16 further provides that if, during the course of the inspection, an inspector uncovers an instance

of non-compliance that exceeds the inspection warrant, the inspector must apply for an addendum to the warrant. Pursuant to sections 49 and 60, inspectors shall be held personally accountable for the actions undertaken in the course of their duties and may receive a fine if they undertake inspections without prior notice.

The Committee notes the 2019 conclusions of the Committee on the Application of Standards (CAS) on the application of Conventions Nos 81 and 129 by Serbia, which called on the Government to: (i) amend sections 16, 17, 49 and 60 of the Law on Inspection Oversight without delay so as to ensure that labour inspectors are empowered to enter freely and without previous notice workplaces in order to guarantee adequate and effective supervision in conformity with Convention No. 81 and Convention No. 129; and (ii) undertake the legislative reforms in consultation with the social partners as well as to ensure effective collaboration between the labour inspectorate and the social partners. The Committee notes the observations of the IOE, the ITUC and the Trade Union Confederation “Nezavisnost” which recall these conclusions adopted by the CAS. The Committee also notes the SAE’s indication in its observations that it is ready to review, with ILO technical assistance and through social dialogue, the Law on Inspection Oversight, in light of these conclusions. The Committee further notes the observations of CATUS, which state that section 17 of the Law on Inspection Oversight contradicts *Article 12(1)(a)* of Convention No. 81 and *Article 16(1)(a)* of Convention No. 129. According to CATUS, while ratified Conventions take precedence under the Constitution, inspections in practice are made with reference to national legislation and it is only in judicial proceedings that the court applies the Convention, in response to its reference by the workers’ attorney. The Committee welcomes the Government’s indication in its report that the Ministry of Labour, Employment, Veteran and Social Affairs held consultations with the Ministry of Public Administration and Local Self-Government, and that a tripartite workshop attended by all relevant stakeholders will take place with the technical assistance of the ILO in January 2020. The Committee also notes the information provided by the Government concerning the application in practice of *Article 12(1)(a)* of Convention No. 81 and *Article 16(1)(a)* of Convention No. 129, including its indication that, in 2018, 93 per cent of inspections took place without previous notification to the employer, and that all 939 inspections of unregistered entities were undertaken without previous notice. ***Taking note of all these considerations, the Committee expects that the Government will continue to take the necessary and prompt measures to ensure the appropriate follow-up to the conclusions of the CAS, in consultation with the social partners. In this respect, it requests the Government to continue to provide information on the measures taken to ensure full compliance with Article 12 of Convention No. 81 and Article 16 of Convention No. 129, and to provide information on the outcome of the tripartite workshop.***

*Articles 3(1)(a) and (b), 7, 10 and 16 of Convention No. 81 and Articles 6(1)(a) and (b), 9, 14 and 21 of Convention No. 129. Adequate number of qualified labour inspectors and inspection visits to ensure the effective application of the legal provisions.* The Committee previously noted that, in 2016, the number of labour inspectors decreased from 324 to 242 following the implementation of administrative reforms. It noted the Government’s indication that the labour inspectorate has managed to significantly increase the efficiency of its work with the existing resources, as a result of intensified inspections.

The Committee notes the observations of CATUS that the number of inspectors is insufficient and that they do not have appropriate conditions and means of work, all of which contribute to the large number of workers’ rights violations; and notes the observations of the ITUC that the Government has taken measures to significantly decrease the number of labour inspectors, and that the ratio of inspectors to registered business entities does not enable an effective inspection service. The Committee also notes the indication of the Government, in response to the Committee’s previous comments, that there are 240 labour inspectors and 416,815 registered business entities liable to inspection as at July 2019. The Committee also notes that the Government refers to a number of measures recommended by a 2019 analysis of inspection services, undertaken by the Balkan Centre for Regulatory Reform and the National Alliance for Local Economic Development, including the hiring of additional labour inspectors and support staff, the procurement of new IT equipment and new vehicles, and the amendment of an existing Rulebook to foresee the hiring and training of junior inspectors, in view of the aging demographic of the existing workforce of labour inspectors. In this respect, the Committee notes the Government’s indication that it is in the process of adopting conclusions for a three-year action plan to hire civil servants carrying out inspections. ***The Committee requests the Government to ensure that the number of labour inspectors is sufficient to secure the effective discharge of the duties of the inspectorate. In this respect, it requests the Government to indicate the measures taken to implement the recommendations to improve the labour inspectorate, including the implementation of the three-year action plan on the hiring of additional inspectors.***

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 2020.]*

## Sierra Leone

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1961)***

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

*Articles 6 and 7 of the Convention. Recruitment and training of labour inspectors and independence of labour inspectors.* The Committee notes the information in the Government’s report that no training opportunities have been provided to labour inspectors in terms of technical or specialized areas, although initial induction training is offered for labour inspectors within the

various units in the Ministry of Labour and Social Security. The Committee also notes the Government's indication that, with respect to qualifications of the labour inspection staff, one of the factors considered in recruitment is political affiliation. The Committee recalls that pursuant to *Article 6* of the Convention, labour inspection staff shall be composed of public officials whose status and conditions of service are such that they are assured of stability of employment and are independent of improper external influences and, pursuant to *Article 7*, they shall be recruited with sole regard to their qualifications for the performance of their duties. ***The Committee requests the Government to take necessary measures to ensure that labour inspectors are recruited with sole regard to their qualifications for the performance of their duties, in accordance with Article 7 of the Convention. Taking due note of the resource constraints, the Committee expresses the hope that the Government will be in a position to make the necessary arrangements to implement an ongoing training programme for labour inspectors, and it requests the Government to provide information on any developments in this respect.***

*Article 12(1)(a). Unannounced visits and free access to workplaces liable to inspection.* The Committee notes the Government's indication in its report that owners of workplaces are notified of formal inspection visits. In this respect, the Committee recalls that under *Article 12* of the Convention, labour inspectors provided with proper credentials shall be empowered to enter freely and without previous notice any workplace liable to inspection. ***The Committee requests the Government to take the necessary measures, including in the context of the ongoing labour law reform process, to ensure that labour inspectors are empowered, in law and practice, to enter freely and without previous notice any workplace liable to inspection.***

*Article 18. Adequate penalties.* The Committee notes the Government's reference to the Factories Act, 1974 concerning applicable fines or penalties, and it observes in this respect that the fines established are quite low. ***The Committee requests the Government to take the necessary measures in the context of the ongoing labour law reform, to ensure the establishment of adequate penalties for the legal provisions enforceable by labour inspectors.***

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.***

## Sri Lanka

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1956)***

The Committee notes that a representation under article 24 of the Constitution of the ILO was presented to the Governing Body by the Flight Attendants' Union alleging non-observance by Sri Lanka of the Labour Inspection Convention, 1947 (No. 81) and the Protection of Wages Convention, 1949 (No. 95). At its 334th session (October 2018), the Governing Body decided that the representation was receivable and to set up a tripartite committee to examine it (GB.334/INS/14/3). In accordance with its past practice, the Committee has decided to suspend its examination of the application of the Convention, insofar as the effective enforcement of measures taken by labour inspectors to institute proceedings and the impartiality of the labour inspection system are concerned, pending the decision of the Governing Body in respect of the representation.

The Committee notes the observations of the Ceylon Bank Employees' Union (CBEU), the Ceylon Estates Staffs' Union (CESU), the Ceylon Federation of Labour (CFL) and the Ceylon Mercantile Industrial and General Workers Union (CMU) on the application of the Convention, and the Government's reply thereto, both received in 2018.

*Articles 3, 4, 5(a), 16, 20 and 21 of the Convention. Effective functioning of the labour inspection system and reliable statistics to evaluate its effectiveness. Annual reports of the labour inspectorate.* The Committee notes the information provided by the Government in its report for the period ending 31 August 2016, in response to the Committee's previous comments, on the implementation of the Labour Inspection System Application (LISA), and the Government's indication that all labour and occupational safety and health (OSH) inspectors have been trained to implement the system. In this context, the Government stated that from 2017 onwards, it would be possible to provide a comprehensive annual labour inspection report, in accordance with *Articles 20* and *21* of the Convention. The Committee nevertheless notes that the observations of the CBEU, the CESU, the CFL and the CMU take issue with the administration of LISA and its effectiveness in the collection of data, and allege that the system does not systematize the labour inspectorate's work or contribute to the improvement of its quality. In response, the Government states that LISA has been continuously improved since its launch, with newly added modules that should help to speed up related inspections. The Committee notes that, while the 2016 annual report of the Department of Labour contains information on laws and regulations relevant to the work of the inspection service, as well as statistics on the number of labour inspectors and the number of inspection visits, it does not contain information on all the subjects listed under *Article 21(a)–(g)* of the Convention. ***Accordingly, the Committee requests the Government to take all the necessary measures to enable the central authority on labour inspection to publish and transmit to the ILO an annual labour inspection report, containing complete information on all the subjects listed in Article 21(a)–(g) of the Convention, in particular on: statistics of workplaces liable to inspection and the number of workers employed therein (Article 21(c)); statistics of violations and penalties imposed (Article 21(e)); statistics of industrial accidents (Article 21(f)); and statistics of occupational diseases (Article 21(g)). The Committee requests the Government to provide information on the measures taken in this regard. In addition, the Committee requests the Government to provide detailed information on the implementation of LISA in practice, including its impact on the effectiveness of the work of the labour inspectorate, both with regard to the number and quality of inspections and the collection of statistics.***

*Articles 3(1)(a) and (b), 9, 13 and 14. Role of the labour inspectorate in the field of OSH. Notification of industrial accidents and cases of occupational disease to the labour inspectorate.* Following its previous comments, the Committee notes the information on the number of inspections visits provided by the Government and in the 2016 annual report of the

Department of Labour. The Committee also notes the Government's indication regarding the role of the National Institute of Occupational Safety and Health (NIOSH), which provides continued services to train labour inspectors on OSH issues. In this regard, the Committee notes the observations of the CBEU, the CESU, the CFL and the CMU stating that the NIOSH is poorly resourced in terms of trained staff and equipment. In addition, as regards measures to ensure that the labour inspectorate is informed of industrial accidents and cases of occupational disease, the CBEU, the CESU, the CFL and the CMU allege that there is no proper link between the general labour inspectorate and the OSH inspectorate to allow for: (i) information sharing and recording; and (ii) issues detected by regular labour inspectors to be followed-up on by OSH inspectors. The unions further allege that occupational injuries are very under-reported. The Government does not provide comments in this respect, but states that, due to the scope of application of the Factories Ordinance, certain workplaces, such as estates in plantations, can only be inspected by general labour inspectors and not by OSH inspectors. ***The Committee requests the Government to indicate the measures taken to ensure that there is effective cooperation between general labour inspectors and OSH inspectors, with a view to securing the effective enforcement of the legal provisions relating to OSH. In addition, the Committee requests the Government to take the necessary measures to ensure that the labour inspectorate are notified of industrial accidents and cases of occupational disease, in accordance with Article 14 of the Convention, and to provide further information on the application in practice of this provision.***

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

## Sudan

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1970)***

The Committee notes the establishment in July 2019 of a power-sharing agreement between the country's ruling military council and opposition groups (the Transitional Military Council and the Forces for Freedom and Change) to share power for a three-year period of reforms, followed by elections for a return to full civilian government.

***Draft strategy on labour inspection.*** The Committee previously urged the Government to pursue its efforts to adopt its strategy on labour inspection, which had been developed in 2014 in the National Tripartite Workshop on Labour Inspection. It notes the Government's indication in its report, in response, that the draft strategy on labour inspection is still being examined and that joint committees have been established to work on it. ***Noting that the development of the draft strategy dates back to 2014, the Committee urges the Government to strengthen its efforts to adopt it, and to provide a copy once adopted.***

***Article 4(1) and (2) of the Convention. Organization and effective functioning of the labour inspection system under the supervision and control of a central authority.*** The Committee previously requested the Government to provide information on the organization of the labour inspection system, including the central authority and local labour offices in each of the states. It notes the Government's indication, in response, that the labour inspection system is placed under the supervision and control of a central authority, through full and close coordination between the central authority and each of the states, including for the purpose of drawing up plans and formulating policies. The Government also states that there is a General Directorate of Coordination and Follow-up, which establishes a network between each state. ***The Committee requests the Government to provide further information on the role, mandate and activities of the General Directorate of Coordination and Follow-up, including information on the details of its network and how the Directorate coordinates with local labour offices. It once again requests the Government to provide the organizational chart of the labour inspection system, illustrating the structure of and relationship between a central authority and local offices under each state. The Committee also requests the Government to provide specific information on the manner in which local labour inspection activities are placed under the supervision and control of a central authority, in order to give full effect to Article 4 of the Convention.***

***Articles 12(1) and 15(c). Unannounced inspection visits and confidentiality of the source of any complaint.*** The Committee previously requested information concerning the possibility for an individual worker to make a confidential complaint, noting the Government's indication that labour inspection visits may be arranged at the request of an employer, a trade union, or a majority of workers in firms where there is no union. In the absence of information provided by the Government in response, the Committee once again recalls that, in accordance with *Article 15(c)* of the Convention, and consistent with paragraph 235 of its 2006 General Survey, *Labour inspection*, 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. ***The Committee recalls in this respect the importance of enabling workers to communicate freely with inspectors and of the confidentiality of complaints, particularly for the protection of workers from reprisals. The Committee once again requests the Government to indicate whether it is possible for an individual worker to submit a complaint to the labour inspectorate and, if so, the measures taken to maintain the confidentiality of the complaint. The Committee also reiterates its request that the Government provide information on whether the labour inspectorate undertakes unannounced visits, and if so, to provide information on the number of such visits undertaken.***

***Articles 20 and 21. Publication and communication to the ILO of an annual report.*** The Committee previously noted that although no annual inspection reports have been communicated to the ILO for more than 25 years, steps had been taken towards the preparation of annual reports, including the identification of training needs and initiatives to facilitate the

preparation of periodic reports by state labour offices. It takes note of the Government's indication, in response, that it is currently gathering reports by state labour offices. **The Committee once again urges the Government to take all possible measures to ensure that labour inspection reports are prepared annually, published and transmitted to the ILO, in accordance with Articles 20 and 21 of the Convention.**

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

## Tajikistan

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 2009)**

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

*Articles 3, 4, 5(b), 6, 8, 10, 11, 13, 17 and 18 of the Convention. Operation of the labour inspection system under the supervision and control of a central authority and duality of inspection functions assumed by state and trade union labour inspectors in this system.* The Committee previously noted that responsibility for labour inspection falls within the State Inspection Service for Labour, Migration and Employment (SILME) of the Ministry of Labour, Migration and Employment, and the inspectorate established by the Federation of Independent Trade Unions (in view of the small number of the staff working at the SILME). The Committee notes the Government's indication, in response to its request, that at the end of 2016, there were 58 public labour inspectors and 36 trade union inspectors. In this respect, the Committee also notes from section 353 of the Labour Code that employers provide funds for the work of the trade union labour inspectorate. **The Committee once again requests the Government to provide information on whether the SILME maintains supervision and control over the labour inspection system in its entirety (including supervision of the activities of trade union inspectors), or whether the SILME and the inspectorate run by the Federation of Independent Trade Unions act independently from each other, except for the conduct of joint inspections. Noting that the Government has not provided information in this regard, the Committee also once again requests it to specify the status and conditions of service of labour inspectors serving in the SILME, in relation to the conditions applicable to similar categories of public servants and trade union inspectors (including concerning stability of employment, wages and allowances). Finally, the Committee requests the Government to indicate whether the trade union inspectorate of the Federation of Independent Trade Unions operates entirely on the budget from contributions of employers, and if not, to indicate the other sources of funding of its operation and their proportionate amounts.**

*Articles 12 and 16. Powers of labour inspectors.* The Committee notes that sections 357 and 358 of the Labour Code provide for certain powers of trade union and public labour inspectors, for instance the power to undertake labour inspections and request information on compliance with the legal provisions. It further notes that sections 19 and 348 of the Labour Code require employers to ensure free access of public labour inspectors to workplaces. The Committee notes, however, with **deep concern** that pursuant to Law No. 1505 of 21 February 2018 providing for a moratorium on inspections in industrial workplaces, the provisions in the Code regarding labour inspections are suspended during the period of application of Law No. 1505, which according to information on the website of the President of the country will be effective for a two-year period, following the issuing of a Governmental Decree. The Committee also notes with **concern** that the Law on Inspections of Economic Entities, adopted by Government Decision No. 518 of 2007, which applies to the labour inspectorate (among other inspection bodies) and to all sectors (not only industry), provides for a number of limitations on inspections. The Committee further notes with **concern** that the Law includes restrictions with regard to the frequency and duration of labour inspections (for example, section 10 of the Law provides that an inspection body may not inspect an economic entity more than once every two years, or exceptionally for a high risk entity, not more than once every six months, and that new entities cannot be inspected until the end of their third year of registration), the need to give prior notice (for example, sections 11 and 13 of the Law provide that economic entities shall be notified three days before the initiation of inspections, except in emergency situations or aggravated sanitary situations (section 15)), and the limitations of the scope of inspections, particularly in terms of the issues to be inspected (section 13). **The Committee emphasizes that any moratorium placed on labour inspection is a serious violation of the Convention, and urges the Government to ensure that the necessary legislative measures are taken with a view to ending the moratorium on labour inspections in the industrial sector. The Committee urges the Government to take the necessary measures to ensure that labour inspectors are empowered to make visits without previous notice, 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 Articles 12 and 16 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.**

## Uganda

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 1963)**

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

*Article 4 of the Convention. Supervision and control by a central authority.* In its previous comments, the Committee had requested the Government to pursue its efforts in placing again the labour inspection system under the supervision and control of a central authority, following its decentralization in 1995. In this respect, the Committee recalls the reiterated discussion of the case by the Committee on the Application of Standards (CAS) of the International Labour Conference (in 2001, 2003 and 2008) and the conclusions of the CAS emphasizing the need for the inspection system to be under the responsibility of a central authority. The Committee notes the Government's indication in its report that the Ministry of Gender, Labour and Social Development (MGLSD) plays a supervisory role, although the system of labour inspection is decentralized. The Government indicates that the MGLSD has started a process to amend the legislation and to place the inspection system under a central authority. **The Committee urges the Government to pursue its efforts to place the labour inspection system under a central authority with a view to ensuring coherence in the functioning of the labour inspection system and to provide information on the steps taken in that regard, including a copy of any legislation adopted.**

*Articles 10, 11 and 16. Resources of the labour inspection system and inspection visits.* In its previous comments, the Committee had requested the Government to pursue its efforts to ensure that human and financial resources are allocated to labour inspection. The Committee notes that the Government indicates that the MGLSD has continued to ensure that human and material resources are allocated to labour inspection and that additional vehicles have been provided to the Department of Labour. However, the Committee notes the Government's indication that inadequate funding continues to represent a challenge. In addition, the Committee notes the 2016 report on the audit undertaken by the auditor general of the Department of Occupational Safety and Health (OSH) of the MGLSD on OSH enforcement activities. The report finds that: (a) out of an estimated 1 million workplaces in the country, only 476 were inspected between 2013 and 2015 (212 in 2012–13, 125 in 2013–14, and 139 in 2014–15, based on departmental annual performance reports); (b) the MGLSD procured analytical and clinical laboratory equipment, but the OSH Department has not fully trained inspectors on the use of the equipment; and (c) enforcement of the OSH legislation has not been effective due to limited personnel and logistics. With respect to personnel issues, the Committee notes that the report indicates that out of 48 approved staff positions, only 22 are currently filled. **The Committee notes with concern the limited human and material resources allocated to labour inspection and urges the Government to take steps to ensure that there are a sufficient number of labour inspectors provided with adequate resources, including through the filling of vacant positions, in conformity with Articles 10 and 11 of the Convention, in order 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.**

*Articles 20 and 21. Publication and communication of an annual report on labour inspection.* In its previous comments, the Committee had noted the Government's commitment to publish and submit to the ILO an annual inspection report on the work of the labour inspection services, pursuant to section 20 of the Employment Act 2006. The Committee notes the Government's indication that a draft annual report has been compiled. However, it notes with **concern** that no report has been published or submitted to the ILO. **The Committee once again requests the Government to take the necessary measures to ensure that annual reports on labour inspection are published and communicated regularly to the ILO within the time limits set out in Article 20 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.

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

## Ukraine

### **Labour Inspection Convention, 1947 (No. 81) (ratification: 2004)**

### **Labour Inspection (Agriculture) Convention, 1969 (No. 129) (ratification: 2004)**

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 Confederation of Free Trade Unions of Ukraine (KVPU) on the application of these Conventions, received on 29 August 2019.

*Articles 4, 6, and 7 of Convention No. 81 and Articles 7, 8 and 9 of Convention No. 129. Organization of the labour inspection system under the supervision and control of a central authority. Partial decentralization of labour inspection functions.* The Committee previously noted the assumption of labour inspection functions by “authorized officials” within local authorities, in addition to the State Labour Service (SLS). It requested the Government, in line with the 2018 conclusions of the Committee on the Application of Standards of the International Labour Conference, to ensure that the inspection functions of the local authorities are placed under the supervision and control of the SLS. In this regard, the Committee once again notes the information provided by the Government in its report on the efforts made to avoid duplication of inspections between the SLS and local authorities. The Committee also notes the information provided by the Government regarding trainings conducted by the SLS with labour inspectors in local authorities. In response to the Committee's previous comments on the recruitment of these authorized officials, including the qualifications required, the Committee notes the Government's indication that, to receive a service certificate as a labour inspector, it is necessary for officials to submit information on qualifications and work experience to the SLS, and that, as of January 2019, there were 1,258 labour inspectors with a service certificate, out of which 531 work for local authorities. The Committee nevertheless notes that the Government has not provided a reply concerning the legal provisions governing the status and conditions of service of these authorized officials, the qualifications required for their recruitment or whether there are regular competitions to recruit them, as there are for SLS inspectors. The Committee recalls that the Committee on the Application of Standards recommended in its 2018 conclusions that the Government ensure that the status and conditions of service of labour inspectors guarantee their independence, transparency, impartiality and accountability in line with the Conventions. **The Committee therefore urges the Government to indicate the measures taken to ensure that the inspection functions of the local authorities are placed under the supervision and control of the SLS. The Committee once again requests the Government to indicate the legal provisions governing the status and conditions of “authorized officials” working as labour inspectors (Article 6 of Convention No. 81 and Article 8 of Convention No. 129), and how it is ensured that their status and conditions of service are such as to guarantee their independence from any improper external influence. The Committee also requests further information on the manner in which it is ensured that “authorized officials” working as labour inspectors have adequate qualifications for the effective performance of inspection duties (Article 7(1) of Convention No. 81 and Article 9(1) of Convention No. 129). In this regard, the Committee requests information related to the labour inspectors working for local authorities, including the number of local authorities employing these**

*inspectors and the number of inspectors at each authority; the compensation levels and tenures of employment for local authority labour inspectors compared with SLS inspectors; and whether training programmes for SLS inspectors are also required for local authority inspectors.*

Articles 10, 11 and 16 of Convention No. 81 and Articles 14, 15 and 21 of Convention No. 129. *Material means and human resources to achieve an adequate coverage of workplaces by labour inspection.* The Committee previously requested information on the filling of the vacant labour inspector posts, measures taken to improve the budgetary situation of the SLS, and the material resources at the central and local levels of the SLS. In this regard, the Committee welcomes the Government's indication that, as of 1 January 2019, the number of labour inspectors is 710 (up from 615 inspectors noted in 2018) for 1,003 existing posts (up from 904 noted in 2018). The Committee observes, however, an absence of information on the material resources at the central and local levels of the SLS. ***The Committee therefore requests the Government to take measures to provide sufficient material resources (offices, office equipment and supplies, transport facilities and reimbursement of travel expenses) at the central and local levels of the SLS. The Committee urges the Government to pursue its efforts to fill vacant posts for labour inspectors, and to continue to provide statistics on the number of labour inspectors.***

Articles 12(1)(a) and (b), 16 and 17 of Convention No. 81 and Articles 16(1)(a) and (b), 21 and 22 of Convention No. 129. *Restrictions and limitations on labour inspection.* 1. *Moratorium on labour inspection.* The Committee previously noted with deep concern that a moratorium was imposed on labour inspection between 1 January 2018 and 22 February 2018. In this respect, it notes the Government's statement that the law introducing the moratorium on state supervision expired on 1 January 2019 and that there is currently no moratorium on labour inspections. ***The Committee expresses the firm hope that no further restrictions of this nature will be placed on labour inspection in the future.***

2. *Other restrictions.* The Committee previously noted that Act No. 877 of 2007 on Fundamental Principles of State Supervision and Monitoring of Economic Activity (Act No. 877) and Ministerial Decree No. 295 on the procedure for state control and state supervision of compliance with labour legislation of 2017 (Decree No. 295), provide for several restrictions on the powers of labour inspectors. These include restrictions with regard to: (i) the free initiative of labour inspectors to undertake inspections without prior notice (section 5 of Decree No. 295 and section 5(4) of Act No. 877); (ii) the frequency of labour inspections (section 5(1) of Act No. 877); and (iii) the discretionary powers of labour inspectors to initiate prompt legal proceedings without previous warning (sections 27 and 28 of Decree No. 295). The Committee urged the Government, in line with the 2018 conclusions of the Committee on the Application of Standards, to take the necessary measures and appropriate reforms to bring the labour inspection services and the legislation into conformity with the Conventions.

The Committee notes with ***deep regret*** that the Government has not replied to the Committee's request in this respect. The Committee also notes the observations of the KVPVU according to which, following a ruling of the Sixth Administrative Court of Appeal on 14 May 2019, Decree No. 295 no longer applies to labour inspections and the SLS may supervise application of labour law only on the basis of the requirements of Act No. 877. According to the KVPVU, inspection procedures largely replicate the provisions of Act No. 877. In this respect, the Committee notes the adoption of Ministerial Decree No. 823 of 21 August 2019 on the Procedure for State Control of Compliance with Labour Legislation. The Committee notes with ***deep concern*** that this Decree also provides for similar restrictions on the powers of labour inspectors, including with regard to the free initiative of labour inspectors to undertake inspections without prior notice (section 8), the maximum duration of labour inspections (section 10), and limits on the inspectors' ability to impose liability and sanctions if corrective action is taken by the violating entity within a specified time limit (sections 27 and 28).

The Committee recalls that, pursuant to *Article 12(1)(a) and (b)* of Convention No. 81 and *Article 16(1)(a) and (b)* 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, and to enter by day any premises which they may have reasonable cause to believe to be liable to inspection. The Committee also recalls that *Article 16* of Convention No. 81 and *Article 21* of Convention No. 129 stipulate that workplaces shall be inspected as often and as thoroughly as is necessary to ensure the effective application of the relevant legal provisions. In addition, *Article 17* of Convention No. 81 and *Article 22* of Convention No. 129 provide that 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 is up to the discretion of the labour inspectors to give warning and advice instead of instituting such proceedings. ***The Committee strongly urges the Government to take the necessary measures and adopt appropriate reforms to bring the labour inspection services and the national legislation into conformity with the provisions of Conventions Nos 81 and 129, including with Articles 12(1)(a) and (b), 16 and 17 of Convention No. 81 and Articles 16(1)(a) and (b), 21 and 22 of Convention No. 129, and to ensure that no additional restrictions are adopted. The Committee recalls that the Government can avail itself of the technical assistance of the ILO in this regard. Lastly, the Committee requests the Government to provide information on draft law No. 1233 of 2 September 2019, which has been approved by the Parliamentary Committee for Social Policy and Veteran's Rights, and which foresees further limits on labour inspectors' powers related to the application of fines for certain categories of entrepreneurs, as well as a decrease in the level of applicable fines.***

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 2020.]***

## United Kingdom

### ***Labour Inspection Convention, 1947 (No. 81) (ratification: 1949)***

The Committee notes the observations of the Trades Union Congress (TUC), received on 30 August 2019.

*Articles 6, 10 and 11 of the Convention. Number and conditions of service of labour inspectors.* The Committee notes that the observations of the TUC refer to substantial budgetary cuts within the last ten years leading to an insufficient number of labour inspectors (including technical experts) to effectively enforce compliance with the labour legislation (for example, in the areas of asbestos and fire safety) and that this number is further declining. The TUC adds that the Health and Safety Executive (HSE) faces important retention and recruitment issues, in view of limitations on career progression and unattractive wages in relation to similar positions in the private and public sectors. The Committee notes with **concern** from the statistical information provided by the Government in its report, in response to the Committee's request, that the number of labour inspectors decreased from 1,432 to 990 between 2011–12 and 2018–19. In this respect, it notes the indication of the TUC that the actual number of labour inspectors is significantly lower, as managers and technical experts are included in the Government's figures. ***Recalling that the number of labour inspectors shall be sufficient to secure the effective discharge of their duties, the Committee requests the Government to take the necessary measures in this regard, and to provide information on the measures it is taking with respect to recruitment and retention. It requests the Government to continue to provide statistics on the number of labour inspectors, and to provide its comments with respect to the indication of the TUC on issues arising from the current classification of technical experts and managers as inspectors.***

*Articles 10, 15(c) and 16. Resources of the labour inspection system and inspection visits. 1. Coverage of workplaces by labour inspection.* The Committee previously noted the reform of the labour inspection strategy, including: (i) targeting inspections in higher-risk sectors; (ii) reducing inspections in areas of concern but where inspections are unlikely to be effective; and (iii) discontinuing inspections in low-risk sectors, except where a workplace was underperforming concerning occupational safety and health (OSH). It also noted that it was planned to reduce the number of inspections in non-major hazard industries, from 2010–11 onwards, by one third every year. In this respect, the Committee considered that while the planning and targeting of inspection activities may be an appropriate method to achieve improved coverage of workplaces by labour inspection, it was important to ensure that often-vulnerable categories of workers (such as workers in small enterprises and workers in agricultural areas) are not excluded from protection due to the fact that they are employed in workplaces or sectors that are not necessarily identified as being high risk, or in sectors where labour inspection is considered too resource-intensive to undertake.

The Committee notes from the statistical information provided by the Government, in response to its request, that the number of OSH inspections undertaken between 2011–12 and 2018–19 remained relatively stable with around 20,000 visits a year and only slightly decreased by about 2,000. However, the Committee also notes the Government's indication, in response to a request for disaggregated information on the workplaces concerned by these visits, that inspection data is only available in a published format as a general total. The Committee notes the Government's indications, in response to the Committee's request on the means used by the labour inspectorate to detect underperformance in the area of OSH of workplaces that are not expected to be subject to inspections, that randomly selected visits (benchmarking visits) are undertaken. The Government indicates that the full results of the intelligence-led system for targeting workplaces and the determination of inspection targets through the "Going to the Right Places Programme" and the "Find-it targeting tool" are not yet available, but indicates that the process is generally effective in identifying sites, although it is important to continue to monitor sectors outside higher risks groups already identified. The Committee also notes that the TUC indicates that because regional variations and other anomalies are not taken into account in the intelligence-led system, some potentially dangerous workplaces are going entirely without inspection. ***The Committee requests the Government to continue to provide information on the number of labour inspections undertaken, and to provide its comments as regards the observations made by the TUC. The Committee also once again requests the Government to ensure that specific and detailed information on the number of inspections undertaken by the HSE is available, disaggregated by the number of workplaces covered by inspection in small, medium-sized and large enterprises and the sectors concerned. It also requests the Government to provide the full results of the assessment of the intelligence-led system for targeting of workplaces including the "Going to the Right Places Programme" and the "Find-it targeting tool" once they are available.***

*2. Strategies for compliance in lower-risk small and medium-sized workplaces (SMEs).* The Committee previously noted that in the context of the Government's strategy to focus inspections on particular sectors, assistance is provided to employers in lower-risk SMEs to meet their legal obligations in the area of OSH (through the establishment of a register of accredited OSH consultants, guidance and online risk assessment tools, free access to advice on OSH and awareness-raising activities). The Committee notes the Government's indication, in reply to the Committee's request, that self-assessments in workplaces are not legally required, and that their use is therefore not monitored by the HSE inspectorate. The Committee also notes from the 2018–19 report of the HSE that long-standing problems such as helping smaller businesses to manage risks proportionately were one of the targets of the period covered by the report. ***The Committee requests the Government to provide an assessment of the impact of the assistance provided to employers in lower-risk SMEs on compliance with the legal provisions relating to conditions of work and the protection of workers.***

*Articles 6, 11 and 15(a). Financial resources of the labour inspection services.* In its previous comments, the Committee noted that it was envisaged to further extend the Fee for Intervention (FFI) cost recovery scheme, which, since 2012, obliges employers in breach of OSH requirements to cover the costs of the HSE in identifying, investigating, rectifying and/or enforcing relevant violations. The Committee noted the Government's reference to generally positive findings as regards the impact of the FFI scheme on the improvement of OSH management. However, it also noted some concerns in an earlier HSE report as regards the dependence of the HSE on the income from that scheme, the potential damage to the reputation of the HSE concerning impartiality and independence, and questions on whether the HSE has an income target for the FFI scheme.

The Committee notes the Government's indication, in response to the Committee's request, that about 7.5 per cent of the budget of the HSE is forecast to be recovered through the FFI, that the hourly rate for the FFI has increased from April 2019 and that the HSE is considering options to further increase the scope of fees and charges to recover more of the cost of its regulatory activities. In this respect, the Committee also notes with *concern* from the 2018–19 report of the HSE that managing the financial resources effectively remains a challenge and that the uncertain nature of the income that is derived from the FFI creates challenges for budgeting. As regards the potential damage to the reputation of the HSE, the Committee notes the Government's indication that a query and dispute process was introduced for the FFI scheme. The Committee also notes the indications of the TUC that, while the Government attempts to introduce money-raising elements to inspection, to partially reduce the impact of big reductions in public funding, they come with a risk of unintended consequences, such as employer reluctance to proactively seek advice and technical information from the HSE for fear of being found in material breach. The Committee recalls that, in conformity with *Article 11*, it is essential for member States to allocate the necessary material resources so that labour inspectors can carry out their duties effectively. *The Committee emphasizes that labour inspection is a vital public function, at the core of promoting and enforcing decent working conditions. It urges the Government to take the necessary measures to ensure that sufficient budgetary resources are allocated for labour inspection, and to provide information on the concrete steps taken to address the challenges identified by the HSE with respect to budgeting. In this respect, the Committee requests the Government to continue to provide information on the budgetary situation of the HSE, and the proportion of its budget raised from the FFI scheme. Lastly, the Committee requests the Government to provide its comments with respect to the TUC observations on the risk of unintended consequences.*

*Articles 17 and 18. Prompt legal proceedings for violations of the legal provisions enforceable by labour inspectors.* The Committee notes the Government's reference, in response to the Committee's request for information on the number of infringements detected and measures taken as a result in each year since the reform, to the HSE's website as regards prosecutions and enforcement action. The Committee notes from the 2018–19 report of the HSE that, between 2015–16 and 2018–19, there has been a significant fall in the number of cases brought by the HSE in which a verdict or conviction has been reached from 672 convictions (out of 711 cases with a verdict) in 2015–16 to 361 convictions (out of 396 cases with a verdict) in 2018–19. The report states that the HSE is currently examining the reasons for this decrease, including the possible impact of having a larger number than usual of inspectors in training. In this respect, the Committee also notes the reference of the TUC to a substantial decline in the enforcement activities of the labour inspection services mainly due to a decline in the staff number and inspections. *The Committee requests the Government to take the necessary measures to ensure that adequate penalties for violations of the legal provisions enforceable by labour inspectors are effectively enforced, in conformity with Article 18 of the Convention. In this respect, it requests the Government to provide information on the outcome of the assessment regarding the reasons for the above-mentioned decrease. It also requests the Government to provide detailed information on the number of infringements detected and the measures taken as a result, disaggregated by workplaces covered in small, medium-sized and large enterprises and the sectors concerned.*

*[The Government is asked to reply in full to the present comments in 2020.]*

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 63** (United Republic of Tanzania); **Convention No. 81** (Albania, Angola, Bangladesh, Barbados, Brazil, Cyprus, Djibouti, Ecuador, France, Grenada, Honduras, India, Ireland, Italy, Republic of Korea, Latvia, Lebanon, Mali, Malta, Montenegro, Niger, Pakistan, Panama, Poland, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Sao Tome and Principe, Saudi Arabia, Serbia, Sierra Leone, Singapore, Slovakia, Sri Lanka, Sudan, Tajikistan, United Republic of Tanzania: Tanganyika, Togo, Uganda, Ukraine, United Kingdom: Gibraltar, Uruguay, Zambia); **Convention No. 85** (United Republic of Tanzania: Zanzibar, United Kingdom: Anguilla, United Kingdom: British Virgin Islands); **Convention No. 129** (Albania, France, Italy, Latvia, Malta, Montenegro, Poland, Portugal, Saint Vincent and the Grenadines, Serbia, Slovakia, Togo, Ukraine, Uruguay, Zambia); **Convention No. 150** (Belize, Dominica, Lebanon, Togo, United Kingdom: Gibraltar, Uruguay, Zambia); **Convention No. 160** (Tajikistan).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 150** (United Kingdom).

## Employment policy and promotion

### Djibouti

#### **Employment Policy Convention, 1964 (No. 122) (ratification: 1978)**

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 2020, 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.

*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.**

### Ethiopia

#### **Private Employment Agencies Convention, 1997 (No. 181) (ratification: 1999)**

*Articles 2(4) and (5) and 3 of the Convention. Prohibitions and exclusions. Legal status and conditions governing the operation of private employment agencies.* In its report received in November 2018, the Government indicates that overseas employment of Ethiopians has been prohibited since 2013, pending the establishment of an appropriate legal framework and governance structure for the protection of Ethiopian workers migrating abroad. The Government reports that, with respect to the revision of the Employment Exchange Services Proclamation No. 632/2009, a new proclamation was adopted in 2016: the Overseas Employment Proclamation No. 923/2016. The Committee notes that the 2016 Proclamation explicitly provides that it replaces the 2009 Proclamation. The Government adds that Proclamation No. 923/2016 has not yet been implemented and its corresponding directive is being developed. The Committee notes the Government's indication that, with the adoption of the 2016 Proclamation, preparations are under way to lift the ban on Ethiopian overseas employment. **The Committee requests the Government to communicate detailed updated information on the legal status of private employment agencies pending and following the lifting of the ban, as well as on the manner in which their conditions of operation are governed, as required by Article 3 of the Convention. The Committee further requests the Government to provide information on the implementation of the Overseas Employment Proclamation No. 923/2016 in practice, as well as information on other frameworks governing the operation of private employment agencies in a domestic as well as cross-border context. Additionally, the Government is requested to provide copies of the directive corresponding to the 2016 Proclamation once it is available, and to indicate which employers' and workers' organizations were consulted prior to the adoption of that Proclamation.**

*Article 7. Fees and costs.* The Committee recalls its 2016 direct request regarding the Employment Exchange Services Proclamation No. 632/2009, which set out the types of fees and costs to be borne by employers and workers. The Committee notes the Government's indication that the newly adopted Overseas Employment Proclamation No. 923/2016, which revised the Employment Exchange Services Proclamation No. 632/2009, will not affect in any way the application of the Convention, including the exceptions permitted under *Article 7(2)*. The Committee notes that section 10(2) of the

2016 Proclamation provides, as did the 2009 Proclamation, that workers are responsible for covering: passport issuance fees; costs associated with the authentication of the contract of employment received from overseas and the certificate of clearance from crime; medical examination fees; vaccination fees; birth certificate issuance fees; and expenses related to the certificate of occupational competence. In respect of the medical examination provided for under section 9 of the 2016 Proclamation, the Committee draws the Government's attention to Paragraphs 3(h) and (i) and 25 of the HIV and AIDS Recommendation, 2010 (No. 200). In particular, Paragraph 25 provides that HIV testing or other forms of screening for HIV should not be required of workers, including migrant workers, jobseekers and job applicants. ***The Committee reiterates its request that the Government provide information on the reasons authorizing the exception, in the interest of the workers concerned, as contemplated in Article 7(2) of the Convention, to the principle that agencies should not charge fees or costs to workers, which would permit charging for the items set out under section 10(2) of the Overseas Employment Proclamation No. 923/2016, as well as information on the corresponding measures of protection. In addition, it requests the Government to indicate which employers' and workers' organizations were consulted in the interests of the migrant workers concerned.***

***Article 8(1) and (2). Protection and prevention of abuses of migrant workers placed in another country. Bilateral labour agreements.*** In response to the Committee's previous request, the Government indicates that no cases of abusive recruiters have been reported since its imposition of the ban on overseas employment in 2013. The Committee notes, however, that the Government provides no information regarding investigations launched against abusive recruiters in accordance with section 598 of the Criminal Code concerning Ethiopian workers placed abroad prior to the imposition of the ban. With respect to bilateral labour agreements (BLAs), the Committee notes the Government's indication that negotiations between Ethiopia and migrant-receiving countries are still ongoing and that the Government can provide information on the outcome of the negotiations once the BLAs with the countries concerned are concluded. ***The Committee requests the Government to indicate the measures taken to ensure adequate procedures and mechanisms to investigate and sanction cases of abuse once the ban on overseas employment is lifted, including the sanctions envisaged. In addition, the Committee requests the Government to provide updated information on progress made in the conclusion and application of bilateral labour agreements concluded with countries receiving migrant workers from Ethiopia, with the aim of preventing abuses and fraudulent practices in the recruitment, placement and employment of Ethiopian migrant workers abroad. It further requests the Government to provide copies of such agreements.***

***Articles 9, 10 and 14. Child labour. Complaint procedures and supervision.*** The Government indicates that, following the imposition of the ban on overseas employment, no cases of Ethiopian minors recruited in a cross-border context have been reported. ***The Committee requests the Government to indicate the measures taken or envisaged to ensure that child labour is not used or supplied by private employment agencies.***

***Articles 11 and 12. Adequate protection and allocation of responsibilities.*** The Government indicates that Proclamation No. 923/2016 adequately ensures the protection of migrant workers in accordance with the above-mentioned Articles. It adds that the impact of the measures taken can only be observed following the implementation of the 2016 Proclamation, indicating that the model employment contract is also under revision. ***In the absence of specific information regarding the manner in which effect is given to Articles 11 and 12 of the Convention in either a domestic or cross-border context, the Committee once again requests the Government to provide updated detailed information on the nature and impact of measures taken to ensure protection for all workers in relation to each of the areas covered under Article 11, as well as the manner in which responsibilities are allocated between private employment agencies and user enterprises as required under Article 12 of the Convention. The Committee also once again requests the Government to provide a copy of the revised model employment contract and updated information on its effective use.***

***Article 13. Cooperation between the public employment service and private employment agencies.*** The Government indicates that information on cooperation between the public employment service and private employment agencies will become available once private employment agencies enter into full operation. ***The Committee requests the Government to provide detailed updated information in its next report on the manner in which effect is given to Article 13 of the Convention. In particular, it reiterates its request that the Government provide extracts of the reports submitted by private employment agencies to the Ministry of Labour and Social Welfare and specify the information that is made publicly available.***

***Articles 10 and 14.*** ***The Committee reiterates its request that the Government provide updated information on the type and number of complaints received and the manner in which they were resolved, the number of workers covered by the Convention, the number and nature of infringements reported, as well as the remedies, including penalties, provided for and effectively applied in the event of violations of the Convention.***

## Libya

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1971)**

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

*Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)*

The Committee recalls the discussion that took place in the Conference Committee on the Application of Standards (CAS) at its 107th Session in May–June 2018 concerning the application of the Convention. Acknowledging the complexity of the situation prevailing on the ground and the presence of armed conflict, the CAS highlighted the impact and consequences of conflicts on poverty and development, decent work and sustainable enterprises, and recognized the importance of employment and decent work for promoting peace, enabling recovery and building resilience. Taking into account the Government's submission and the discussion, the Committee requested the Government to provide information regarding updated statistics on the labour market, disaggregated by sex and age; information on the labour market strategy and the way in which employment objectives are to be achieved; information on progress made in the compilation and analysis of labour market data; and information on measures to promote the establishment and development of small and medium-sized enterprises (SMEs) as well as measures introduced to increase the participation in the labour market of persons in vulnerable situations. The CAS urged the Government to submit a detailed report to the Committee of Experts at its November 2018 session. It also urged the Government to avail itself of ILO technical assistance to adopt and implement without delay an active policy designed to promote full, productive and freely chosen employment, in consultation with the social partners. The CAS called on the ILO, the international community and employers' and workers' organizations to collaborate with the goal of reinforcing the labour administration system in Libya so that full, productive and freely chosen employment could become a reality in the country as soon as possible.

*Articles 1, 2 and 3 of the Convention. Implementation of an active employment policy. Consultations with the social partners.* The Committee welcomes the information provided in the Government's report. In respect of the national labour market strategy and the means for achieving the objectives of the Convention, the Government indicates that the Libyan National Strategy for Human Development and Empowerment for 2013–2014 (the Strategy) focused on: transformational training for graduates whose qualifications do not meet labour market requirements; promotion of self-sufficiency through the creation of SMEs; and the establishment of a comprehensive human resources and employment database to identify human resource requirements. The Strategy also specifies six key strategic objectives in relation to training and the workforce, which are to: increase the rate of full and decent employment for all those able to work; address the problems of seasonal and underemployment and consider enforcing the social security law to avoid criminal behaviour that could result from an interruption of income; emphasize vocational guidance and counselling for new entrants to the labour market and expand the participation of the private sector in vocational and technical training; increase the number of seminars and studies on human resources and enabling participation in these at home and abroad, as well as reviewing recruitment policies, activities and procedures and develop legislation in response to globalization; promote women's empowerment and capacity building; change stereotypes with respect to women's work; restructure the labour market to respond to requirements in the area of globalization and information technology; and develop methods and mechanisms of training and vocational and technical rehabilitation which respond to the introduction of advanced methods in the field of training, including continued distance training, transformational training and other training modalities. **The Committee requests the Government to provide information on progress made in the implementation of the Libyan National Strategy for Human Development and Empowerment for 2013–14 and on its impact in terms of promoting full, productive, freely chosen and sustainable employment opportunities, as contemplated in Article 1 of the Convention.**

*Article 2. Employment trends. Labour market information.* The Government reports that the Documentation and Information Centre of the Ministry of Labour and Rehabilitation launched a system for gathering data on the labour force in the public and private sectors, as well as data on jobseekers. According to the report, the total number of people in employment in both the public and private sectors is 1,827,692, out of which 738,608 are women, and 1,089,084 are men. The data also indicates that 170,643 of the employed population are in the 18 to 25 age bracket and 1,657,049 are over 25. It further notes that, according to the adjusted data, in 2017, the number of jobseekers reached a total of 205,000 persons. The Committee notes, however, that the Government provides no information on the year for which this information is applicable. The Government indicates that the Ministry's centres and affiliated institutes (such as the Libyan-Korean Institute affiliated to the Ministry of Labour) provide training to registered jobseekers and graduates in several fields. It adds that as a result, several trainees have found employment either in the National Oil Corporation, and others in the private sector. The Government further reports that the Libyan multi-purpose survey project for the period 2017–18 has been implemented and that its results will be used to inform the development of an employment policy, in collaboration with the social partners. It adds that in mid-August 2018, a technical delegation from the International Labour Organization (ILO) visited Libya to discuss with the Minister of Labour the establishment of an ILO representation office in Tripoli, which would support comprehensive cooperation between the Ministry of Labour and the ILO to achieve common goals, especially on the topics of: restructuring; the digital Government; archiving and the development of the public sector; illegal migration; and rehabilitation and training programmes. **The Committee requests the Government to provide detailed updated information on the impact of measures taken to improve the labour market information system. It also requests the Government to indicate the manner in which the labour market information obtained is used, in collaboration with the social partners, for the formulation, implementation, evaluation and modification of active labour market measures. The Committee further requests the Government to provide updated statistics, disaggregated by sex and age, concerning the size and distribution of the labour force, the type and extent of employment, unemployment and underemployment.**

*Promotion of SMEs.* The Government indicates that the National Programme for Small and Medium-sized Enterprises was established to promote a culture of innovation and create a supportive environment for SMEs. In October 2017, the National Reconciliation Government launched a pilot programme to finance SMEs, with the aim of providing job opportunities to youth and reducing unemployment. The programme was intended to provide financial loans to entrepreneurs through commercial banks backed with guarantees from the Lending Guarantee Fund. In addition, business incubators were to be set up throughout the country to provide assistance for projects and to train those responsible for the projects and assist them in preparing their work plans. Commercial banks would undertake to finance up to 60 per cent of the project's cost, provided that supporting project funds contributed 30 per cent of the total value of the project and the beneficiary of the project paid 10 per cent of the remaining cost. The Committee notes that ten business incubators were launched at Libyan universities to provide and support graduate students in cooperation with the Libyan Oil Corporation, to open centres in fields such as Jallow and Uppari to train young people and help them finance their own projects. It further notes that, in cooperation with international organizations such as Expertise France, several boot camps were held in Tunis to train young entrepreneurs and assist them in setting up projects. **The Committee requests the Government to continue to provide detailed updated information on the impact of the measures taken to generate employment through the promotion of SMEs and entrepreneurship opportunities.**

*Employment of women.* The Government indicates that the Presidential Council of the National Reconciliation Government has attached particular importance to the rights of women and persons with special needs to work without neglecting the rights to education, health, development and other rights that respect the religious and cultural identity of the Libyan people. In this regard, the Council issued Resolution No. 210 of 2016 establishing a support and empowerment unit for women employed in state institutions. The Committee also notes that Law No. 2 of 2018 issued by the Presidential Council provides for the implementation

of the Convention on the Elimination of All Forms of Discrimination against Women, ratified on 16 May 1989. *The Committee requests the Government to provide detailed information, including updated statistical data, disaggregated by age, sex and economic sector or occupation, on the impact of labour market measures taken to increase the labour force participation rate of women, including in managerial and decision-making positions across all economic sectors.*

*Persons with disabilities.* The Government reports that a special programme has been created for people with disabilities, including young persons with disabilities due to the conflict. The Committee notes that, in 2009, the number of people with disabilities in Libya was 70,721, out of which 3,879 hold postgraduate or university degrees, while 14,525 are illiterate and 13,159 are unable to learn. In this regard, the Government indicates that the General Authority of Families of Martyrs, Amputees and Missing Persons (the “Authority”), in collaboration with the National Programme for Small and Medium Enterprises, established a special programme for entrepreneurs, known as “Ademeni” (Support Me). The programme aims to improve the working capacity of people with disabilities and to prepare them for employment. The programme focuses, among other things, on education and training, including in information technology, needs assessments, capacity building, support and training of non-governmental organizations and employment services, raising companies’ awareness of the benefits of employing persons with disabilities, and promoting entrepreneurship for persons with disabilities who wish to start private businesses. The Committee notes that the Presidential Council has issued Publication No. 2 of 2018 to implement the provisions of the International Convention on the Rights of Persons with Disabilities, ratified by Libya on 13 February 2018. The role of the Presidential Council, in this regard, is to promote the access of persons with disabilities to employment opportunities guaranteed to them by the legislation. In this context, the Government indicates that ministries, public institutions, bodies and companies are required to comply with the legislation in force. The Committee notes that Law No. 3 of 1981 and Law No. 5 of 1987 (on persons with disabilities) stipulate that persons with disabilities should be provided with “a suitable job” and that administrative units, companies and public facilities are required to hire a certain proportion of persons with disabilities. On 3 May 2012, the Minister of Labour and Capacity Building introduced a 5 per cent quota for persons with disabilities in state administrative jobs. *The Committee requests the Government to provide updated detailed information on the impact of active employment measures taken to promote the employment of persons with both mental and physical disabilities. It further requests the Government to provide updated statistics disaggregated by age and sex, indicating the number of persons with disabilities employed in the public and private sectors.*

*Migrant workers.* The Government reports that migrants in an irregular situation were reluctant to regularize their situation through registration, due to their fear of being repatriated and their desire to migrate to Europe through the country as one of the transit States south of the Mediterranean. The Committee notes that, in cooperation with neighbouring countries, countries of origin and relevant international organizations, the Government has made significant and positive progress in reducing irregular migration, urging migrants to obtain legal status in the country to enjoy rights guaranteed by law for voluntary employment or voluntary repatriation. *The Committee requests the Government to provide updated detailed information on measures taken or envisaged to implement the recommendations of the Committee on the Application of Standards in relation to migrant workers.*

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

## Madagascar

### Employment Policy Convention, 1964 (No. 122) (ratification: 1966)

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 expressed the hope that the Government would soon be in a position to report progress in the formulation and implementation of an employment policy. In this regard, the Committee notes with *interest* the Government’s indications that Act No. 2015-040 of 9 December 2015 determining the orientation of the National Employment and Vocational Training Policy (PNEFP) has been adopted and is the subject of an awareness-raising campaign. It adds that the National Plan of Action for Employment and Training (PANEFP) has been replaced by the Operational Plan of Action (PAO), which contains the various policy priorities implemented by the PNEFP. The Government indicates that the objective of the PNEFP, together with the implementation of the General State Policy (PGE), the National Development Plan (PND) and the Sustainable Development Objective (ODD), is to eradicate unemployment and underemployment by 2020 through the creation of sufficient numbers of formal jobs to absorb jobseekers. The PNEFP also has the goal of establishing a relevant information system on the labour market and vocational training and of designing and introducing a harmonized system of certification and training. The Government adds that four employment fairs were organized in December 2015 and that 1,119 young school-leavers were trained and integrated into small-scale rural occupations within the context of a partnership with UNESCO. Also in relation to employment promotion, the Government reports two “Rapid Results” initiatives of the Ministry of Employment, Technical Education and Vocational Training (MEETFP), which it indicates have been fully achieved. The first initiative focused on the matching of training and employment in 12 growth sectors. The second established a vocational training centre in the town of Andranofeno Sud with a view to employment generation. The centre provides training to around 100 students in six main areas: tourism, hotels and catering, agriculture and livestock, wood art and trades, automobile mechanics, construction and public works. The Government adds that 1,058 rural young school-leavers have been trained in 15 types of trades in several regions and that 59 persons with disabilities were trained by the National Training Centre for Persons with Disabilities (CNFPSSH) in the regions of Analanjirofo and Sava. The National Employment and Training Observatory has been transformed into the National Employment and Training Office. With regard to the upgrading of technical education and vocational training, the Government reports the rehabilitation in 2015 of five technical and vocational schools, 60 classrooms and the accreditation of 97 public and private technical establishments. The Government adds that four vocational training centres for women are now operational. *The Committee requests the Government to continue providing information on any developments relating to the implementation of the National Employment and Vocational Training Policy, as well as on its impact on the employment rate and the reduction of unemployment, and on the transition from the informal economy to the formal economy. The Committee once again requests the Government to provide information to enable it to examine the manner in which the main components of economic policy, in such areas as monetary, budgetary, trade or regional development policies, contribute “within the framework of a coordinated economic and social policy” to the achievement of the employment objectives set out in the Convention. The Committee also requests the Government to provide updated information on the measures adopted or envisaged to create lasting employment, reduce underemployment and combat poverty, particularly for specific categories of workers, such as women, young people, persons with disabilities, rural workers and workers in the informal economy. In this*

*regard, it requests the Government to provide further information on the types of training provided by the CNFPPSH to persons with disabilities.*

*Coordination of education and training policy with employment policy.* The Committee notes with *interest* that, under the terms of section 2 of the PNEFP, its objective is the implementation of a policy for massive job creation and the promotion of vocational training. Section 10 of the PNEFP specifies that the policy includes in particular activities for employment creation, enterprise support, labour market mediation, the direct promotion of employment for young persons, women and vulnerable categories, the promotion of decent work and the extension of social security. In section 5, it establishes the right to training and qualifications irrespective of a person's individual and social situation and educational level. The Committee further notes that section 46 calls for the creation of partnership between the State, territorial communities and technical and financial partners with a view to launching and financing employment promotion action for young persons, women and disadvantaged categories of workers. The Government indicates that the action taken for youth employment includes, on the one hand, the promotion of self-employment and traditional or informal enterprises and, on the other, support for integration into enterprises and traditional activities. The objectives of this action include support for young persons in their vocational projects and the reinforcement of financing capacities. The Ministry provides training to young persons with a view to promoting self-employment and the creation of small and medium-sized enterprises and industry. During the course of 2015 and the first half of 2016, training of this type was provided to 1,436 young persons from six regions. *The Committee requests the Government to continue providing information on the results of the action taken to ensure the coordination of vocational education and training policy with employment policy. It once again requests the Government to indicate the results achieved through the implementation of these programmes in terms of the access of qualified young persons to lasting employment. The Committee further requests the Government to indicate the impact of the measures taken to promote the creation of small and medium-sized enterprises.*

*Compilation and use of employment data.* The Government indicates that the Periodic Household Survey was commenced and then replaced by the global population census in light of the State's priorities due to the significant increase in the population. However, it reports the preparation of a partnership project with the International Labour Office with a view to establishing a system of reliable databases on employment. The National Employment and Training Office will be responsible for the management of the system. The Government adds that in 2016 the MEETFP started to establish Regional Employment Services (SRIE) in Regional Departments, and that there are now SRIEs in nine Regional Departments and that they are responsible for managing the regional employment information system, which involves matching young jobseekers and enterprises. *The Committee requests the Government to provide information on the progress achieved by the project in the establishment of a system of reliable databases on employment. It also requests the Government to provide further information on the impact of the SRIEs in relation to the compilation and use of employment data.*

*Article 3. Participation of the social partners in the formulation and implementation of policies.* The Government indicates that a National Agreement on Employment and Vocational Training was concluded with the social partners in October 2015 and with enterprise groups in the five priority areas in November 2015. The Government also reports the conclusion of two other agreements including the social partners, namely the agreement on the financing of the Technical Support Team for the PNEFP and the agreement on the fund for its implementation. *The Committee requests the Government to continue providing updated information on the consultations held with the representatives of the social partners on the subjects covered by the Convention. The Committee once again requests the Government to provide detailed information on the consultations held with the representatives of the most disadvantaged categories of the population, and particularly with the representatives of workers in rural areas and the informal economy.*

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

## Mozambique

### Employment Policy Convention, 1964 (No. 122) (ratification: 1996)

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. Formulation and implementation of an active employment policy.* The Committee notes with *interest* that following ILO technical assistance, Mozambique adopted a National Employment Policy (NEP) in 2016. The NEP's principle objectives are: to promote job creation, entrepreneurship and sustainable employment to contribute towards the economic and social development of the country and the well-being of the population. The NEP includes, among its main targets, the creation of new jobs (particularly in the private sector); implementation of programmes contributing to increased productivity, competitiveness and the development of human capital; establishment of the institutional conditions necessary to improve the functioning of the labour market; and ensuring the harmonization of sectoral policies as well as an institutional framework for employment and self-employment. The Committee notes the publication of the Fourth National Poverty Assessment in 2016, which places the national poverty rates in the range of about 41 per cent to 45 per cent of the population (representing between 10.5 and 11.3 million extremely poor people). The report also states that, due to the concentration of Mozambique's workforce in subsistence agriculture and low productivity informal enterprises, the country is characterized by high levels of individual and household vulnerability, particularly in rural zones in the north and central areas of the country. *The Committee requests the Government to provide comprehensive information on the results achieved and the challenges encountered in attaining the objectives established in the NEP, particularly on the outcome of the programmes established to stimulate growth and economic development, raise working and living standards, respond to labour market needs and address unemployment and underemployment.*

*Article 2(a). Collection and use of labour market information.* The Committee notes the development of the Household Survey by the National Statistics Institute (INE) 2014–15. It observes that, according to statistical information included in the Employment Policy report, in 2015 the unemployment rate was 25.3 per cent. The main source of employment was self-employment (73.1 per cent of the economically active population (EAP)), while wage employment represented 20 per cent of the EAP. In addition, 15 per cent of the EAP was employed as unpaid family workers (8.5 per cent were men and 21 per cent were women), 7.3 per cent were temporary workers and 9 per cent were casual workers. The Committee also notes that the NEP calls for the improvement of the country's labour market information system. *The Committee requests the Government to provide up-to-date information, including statistical data disaggregated by economic sector, sex and age, on the current situation and trends regarding the active population, employment, unemployment and underemployment throughout the country.*

**Youth employment.** The Committee notes that the NEP's principal targets include promoting investment to create employment for young women and men and stimulating professional training and labour mobility for young people. To achieve these objectives the NEP sets out lines of action that call for promoting youth entrepreneurship through training programmes, particularly in rural areas, as well as increasing access to credit; investing in youth training and increasing the number of traineeships. The Government indicates that in 2015 awareness-raising conferences on Pre-occupational Traineeship Regulations were held at the national and provincial levels to encourage enterprises to engage trainees. In addition, the Government refers to the establishment of financial programmes to support entrepreneurial initiatives developed by young people. **The Committee requests the Government to provide detailed information on the manner in which the implementation of the NEP, the Pre-occupational Traineeship Regulations and other programmes providing education and vocational training for young persons or supporting entrepreneurship of young women and men have increased access of young people to full, productive and sustainable employment.**

**Women's employment.** The Committee notes that the NEP calls for strengthened initiatives promoting gender equality in economic and social development programmes. The lines of action set out in the NEP include: promoting women's employment, including in traditionally male occupations; prioritizing education and vocational training with a view to promoting equal employment opportunities for women and men; and eliminating gender discrimination in access to employment. **The Committee requests the Government to provide updated detailed information on the results of the specific measures adopted and implemented under the NEP to promote equal employment and income opportunities for women and men and to eliminate the gender gap in education, particularly in relation to literacy rates.**

**Education and vocational training.** The Committee previously requested the Government to provide information on the results achieved under the Employment and Vocational Training Strategy (EEFP) 2006–15 and the Integrated Programme for Vocational Education Reform (PIREP). The Committee notes from the Employment Policy report that access to secondary education is limited and the completion rate remains very low at 13 per cent. The report adds that the relevance of education and vocational training to the needs of the labour market is also very low. The Government indicates that reforms have been introduced in the areas of education and vocational training to address these challenges. In particular, the Government refers to the adoption of the Vocational Education Law in the framework of the PIREP, which provides that the National Authority for Vocational Training, whose executive board includes representatives of the social partners, is the body responsible for the Vocational Training System. Moreover, vocational training centres and technical institutes in the country have been renovated. Finally, the Government indicates that in 2014, in the framework of the EEFP, 2,490,672 jobs (464,413 for women) were created and 633,971 people participated in the training (219,260 women). **The Committee requests the Government to continue to provide information, including statistical information disaggregated by age and sex, on the impact of the measures taken in the area of education and vocational training and on their relationship to prospective employment opportunities.**

**Article 3. Consultations with the social partners.** The Committee notes that, prior to its adoption, the NEP was examined by the social partners within the Labour Advisory Commission in May 2016. Moreover, the Employment Policy establishes that the Labour Advisory Commission and the Development Observatory are the bodies entrusted with the responsibility of following up on the implementation of the NEP. **The Committee requests the Government to continue to provide detailed information on the involvement of the social partners in the promotion and implementation of the NEP.**

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

## Nigeria

### **Employment Service Convention, 1948 (No. 88) (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 and 3 of the Convention. Contribution of the employment service to employment promotion.** The Committee notes with *interest* the adoption of the revised National Employment Policy (NEP) on 19 July 2017, which provides for a range of improvements to the employment service system. In particular, the Committee welcomes section 4.7.6 of the NEP, in which the Government undertakes to improve the collection, processing and analysis of employment statistics and other labour market information for purposes, inter alia, of improved employment and social development planning, and with the objective of establishing and maintaining functional and timely information regarding job vacancies, sectoral changes, geographical imbalances and other labour and income trends. The Committee further notes that, pursuant to section 4.7.7 of the NEP, the Government, through the Federal Ministry of Labour and Employment (FMLE), is to establish a minimum of two community employment centres (CECs) in all 744 local government areas in the country. The CECs are to provide a full range of employment services to jobseekers in rural and urban communities in the country, including training, referrals, career counselling and information on job vacancies. **The Committee requests the Government to provide detailed information on the measures taken or envisaged to implement the provisions of the NEP and its accompanying employment matrix, relating to the structure and functioning of the employment service. The Committee also requests the Government to provide updated information, including statistical information disaggregated by age and sex, on the number and location of public employment offices, including the CECs established in the different areas of the country, the number of new staff recruited, the number of applications for employment received, the number of vacancies notified and the number of persons placed in employment by such offices. The Government is requested to indicate the manner in which the employment service, in collaboration with 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 notes the Government's indication that the social partners, along with other stakeholders, participated in the review and validation of the revised NEP and its accompanying implementation matrix prior to its adoption by the Federal Executive Council in July 2017. **The Committee requests the Government to indicate the measures taken or envisaged to give effect to the provisions of Article 4, which requires arrangements to be made through one or more national advisory committees – and where necessary regional and local committees – for the cooperation of the social partners in the organization and operation of the employment service and the development of related policy. In this context, and referring once again to its previous comments, the Committee reiterates its request that the Government provide information on consultations held in the National Labour Advisory Board on the organization and**

*operation of the employment exchanges and professional and executive registries, as well as on the development and implementation of employment service policies and programmes.*

*Article 6. Organization of the employment service.* The Government reports that some of the employment exchanges and the professional and executive registries in Nigeria have been upgraded to model job centres. It adds that the services provided by the exchanges have been upgraded and their facilities computerized, enabling them to replace manual registration of jobseekers with an electronic platform linked to the National Electronic Labour Exchange (NELEX), enabling jobseekers and employers to meet online and access employment services. *The Committee requests the Government to provide updated detailed information, including statistical information on the impact of reorganization and restructuring of the employment services under the revised NEP. The Committee further requests the Government to provide up-to-date information on the operation of the job centres and their contribution towards meeting the needs of employers and workers, particularly in those regions of the country with high levels of unemployment. The Government is also requested to provide updated information in its next report on progress made regarding the establishment of CECs in all 744 local government areas of the country, as called for under the NEP, as well as on other measures taken or envisaged to respond to the needs of employers and workers in all geographical regions of the country.*

*Article 7. Particular categories of jobseekers.* The Committee welcomes the provisions in sections 4.7.3 and 4.7.4 in the revised NEP, in which the Government undertakes to develop and implement a range of measures to ensure the greater participation of women in the workforce and the full employability of persons with disabilities, respectively. In respect of the employment of women, the Committee notes that the federal and state Governments are to develop self-employment promotion programmes for women, especially in rural communities, and the Federal Ministry of Women's Affairs and Social Development, together with related state ministries and local government councils, shall establish mentorship programmes and gender-specific career counselling in the 744 local government areas (NEP, section 4.7.3). In relation to the employment of persons with disabilities, section 4.7.4 of the NEP provides, inter alia, that the Government will facilitate the passage of a draft law on persons with disabilities and establish vocational rehabilitation centres to develop and enhance the skills and potential of persons with disabilities. *The Committee requests the Government to provide comprehensive updated information on measures taken to promote women's employment, particularly in rural communities, including information on the mentorship and gender-specific career counselling services provided in the local government areas, specifying the involvement of the employment service in this respect. The Committee further requests the Government to provide detailed information on measures taken or envisaged to give full effect to the provisions of section 7.7.4 of the NEP, including providing a copy of the law on persons with disabilities once it is adopted. The Committee recalls that the Government may avail itself of technical assistance with regard to the achievement of these objectives.*

*Article 8. Employment of young persons.* The Committee notes the focus in section 4.7.1 of the NEP on job creation for young persons, particularly in the agricultural sector. In particular, the Government contemplates providing temporary employment for 500,000 graduates annually in the areas of education, agriculture, health and taxes. *Referring once again to its previous comments, the Committee requests the Government to provide detailed information on the impact of the measures taken by the employment service to assist young persons in securing suitable employment, as well as information on the impact of measures taken by the National Directorate of Employment and the National Poverty Eradication Programme in this respect. The Government is also requested to provide information on the specific measures taken to implement the provisions of the NEP on youth entrepreneurship – including training and facilitating access to credit, insurance and other financial services – and skills acquisition for unemployed youth. It further requests the Government to provide information on the specific services and activities offered by the employment service in relation to the achievement of the objectives set out in section 4.7.1 of the NEP of generating employment opportunities and promoting skills acquisition for young persons.*

*Article 10. Measures to encourage the full use of employment service facilities.* The Government indicates that private employment agencies (PEAs) are encouraged to advertise all job vacancies on the NELEX platform. In addition, it envisages taking steps to raise public awareness of the activities of the employment exchanges and the NELEX platform. *The Committee reiterates its previous request that the Government provide detailed information on the measures taken or envisaged by the employment services, with the cooperation of the social partners, to encourage the full use of employment service facilities. The Government is requested to provide specific examples of activities conducted to reach out to the local workforce in various geographical regions of the country.*

*Article 11. Cooperation between public and private employment agencies not conducted with a view to profit.* The Committee notes the provisions of the NEP concerning the regulation of the activities of PEAs operating in the country. In particular, the Government, through the FMLE, undertakes to ensure adequate protection for the workers placed by such agencies. The Government reports that annual capacity-building workshops carried out with PEAs have strengthened existing cooperation between the employment service and PEAs. It adds that the workshops have resulted in improved compliance by PEAs with statutory provisions and have raised their awareness of decent work principles. *The Committee requests the Government to continue to provide updated information on the measures taken or envisaged to ensure effective cooperation between the public employment service and PEAs not conducted with a view to profit, including information on the content and outcome of the annual capacity building workshops for such agencies.*

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

## **Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159) (ratification: 2010)**

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

*Articles 1–4 of the Convention. National policy. Promoting opportunities in the open labour market for persons with disabilities.* The Committee notes that the Government's report fails to address most of the issues raised in its previous comments regarding the application of the Convention since its ratification. The Committee noted the Government's indications concerning a draft bill that was then before the National Assembly and which intended to ensure full integration of Nigerians with disability into society. Moreover, despite a comprehensive National Policy on the Rehabilitation of Persons with Disabilities, including implementation strategies, the Government states in a very brief report that it had ensured at least 2 per cent of the workforce for suitably qualified persons with disabilities; additionally, that letters of recommendations have been issued in order to enable persons with disabilities to be gainfully employed; that economic empowerment programmes have been organized, and that mobility aids and appliances have been distributed. Moreover, the Government indicates that it has endeavoured to ensure availability of

vocational rehabilitation to all categories of persons with disabilities. *The Committee renews its request for full information on the matters raised in its previous comments, particularly specific information on the status of the draft bill. The Committee requests the Government to provide full information on the implementation of the National Policy on the Rehabilitation of Persons with Disabilities. Please also provide relevant information on the application of the Convention, including statistical information disaggregated, as much as possible, by age, sex and nature of the disability, as well as extracts from reports and studies or inquiries on the matters covered by the Convention.*

*Article 5. Consultations. The Committee once again requests the Government to describe in detail the manner in which representative organizations of employers and workers, and representative organizations of and for persons with disabilities are consulted in practice regarding the implementation of the vocational rehabilitation and employment policy for persons with disabilities.*

*Articles 7 and 9. Services for persons with disabilities. Qualified staff for persons with disabilities.* The Government indicates that it ensures that persons engaged in providing and evaluating vocational guidance, vocational training, placement, employment and other related services to persons with disabilities have adequate knowledge of disabilities and their limiting effects, as well as integrating them into active economic and social life. *The Committee requests the Government to describe the measures taken or envisaged with a view to providing and evaluating vocational guidance and vocational training services for persons with all types of disabilities, and to indicate whether existing services for workers are being used with necessary adaptations. The Committee renews its request to the Government to provide further information on the number of persons trained and qualified staff made available to persons with disabilities.*

*Article 8. Rural areas and remote communities.* The Government indicates that, in rural and remote communities, trainable persons with disabilities are attached to local craftsmen such as tailors, hairstylists, barbers, vulcanizers. *The Committee once again requests the Government to describe the measures taken to promote the establishment and development of vocational rehabilitation and employment services for persons with disabilities in rural areas and remote communities.*

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

## Paraguay

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1969)**

*Articles 1 and 3 of the Convention. Active employment measures. Informal economy.* The Committee notes that, according to the ILO technical report of 2018 on critical segments of labour informality in Paraguay, it is one of the countries in the region with the highest incidence of informal employment. The technical report indicates that, in 2016, seven out of every ten active persons were informal, which has led to a growing prioritization in national public policies on the formalization of workers. The Committee also observes that, according to the technical report, most informal workers receive income for the tasks performed that are far from the minimum levels set for formal employed persons. In particular, the report indicates that 68.7 per cent of informal employed persons in 2016 received wages below the statutory minimum wage which covers formal employed persons in a dependent employment relationship. In the case of own-account informal workers, income levels are substantially lower than those received by employed persons (83.8 per cent receive wages below the statutory minimum wage). Moreover, four in ten informal own-account workers are not able to rise above the poverty line with the income that they earn. In this context, the Committee notes the approval in February 2018 of the Integrated Strategy for the Formalization of Employment and Social Security by the Tripartite Advisory Economic Council, the objective of which is to achieve growth of approximately 25 per cent in the formalization of employment by 2030. This Strategy is included in the priority objectives and actions of the Paraguay National Development Plan 2030, which includes as a target the formalization of the economy with the objective of achieving 90 per cent formalization of economic activity in the principal economic sectors in the country by 2030. The Government adds that the Strategy includes social information and awareness-raising (such as decent-work fairs, visits to schools and free advisory services), as well as coordination and articulation between the institutions producing data on formality levels of enterprises, employment and social security. The Government reports the preparation of a proposal for the reinforcement of social security inspection with a view to promoting effective social security inspection and strengthening inter-institutional collaboration and coordination mechanisms between the Ministry of Labour and Social Security (MTESS) and the Social Insurance Institute (IPS). A protocol has also been prepared for application by various institutions, such as the General Directorate of Social Security and the General Directorate of Workers' and Employers' Contributions of the IPS, in the event that unregistered employment is identified through complaints, mediation, controls and inspection. However, the Committee notes that, according to the ILO technical report, the major challenges to formalization relate to those on the margins separating the informal economy from the formal economy, such as workers in rural areas. The technical report indicates that almost all own-account workers in agricultural, stock-raising and fishing are informal and that nine out of ten employed persons in those sectors are also informal. The formalization initiatives that have been carried out in the country do not cover work in rural areas, as they are focused on employed persons in urban areas. The report emphasizes that in certain cases the difficulty lies in the invisibility of the activity or in the low incomes associated with low-productivity activities which are insufficient to cover the costs of formalization. In other cases, the difficulty is particularly related to the lack of a public policy or the weaknesses of design and implementation that undermine its effectiveness. Finally, the Committee notes that, according to the report of 20 July 2018 of the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, "[w]orkers in the informal economy – who are more likely to be women – are often subject to a high degree of precariousness, have no access to social or workplace protection (a fundamental feature of decent work) and work in sectors not fully covered by labour laws, making them highly vulnerable to exploitation, including contemporary forms of slavery" (A/HRC/39/52/Add.1, paragraph 33). *The Committee draws the Government's attention to the guidance provided in the*

***Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204).*** It requests the Government to continue providing detailed and updated information on the scope of the informal economy and the measures adopted in accordance with its national employment policy to facilitate the transition to the formal economy, particularly in rural areas of the country, including the measures adopted within the framework of the Integrated Strategy for the Formalization of Employment and Social Security, and their impact.

***Coordination of employment policy with economic and social policies.*** The Committee notes, based on the report of the United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences, that “[a]lthough it has witnessed sustained growth in GDP over the past five years, it continues to be affected by significant levels of both poverty and inequality, and is one of the poorest countries in the Latin American region.” The report adds that “while the macroeconomic policy of attracting foreign investment to promote agribusiness (such as soya production and cattle farming) and establishing *maquiladoras* (manufacturing plants that import and assemble duty-free components for export) bolsters the economy, poverty and inequality continue. The fiscal benefits received by private businesses are not passed on in the form of job creation or social development for poorer communities. The policy aimed at transforming the country into a low-tax haven, with low minimum wages and labour market and administrative flexibility creates a situation whereby forced labour, child labour and hazardous child labour thrive, as many families send their children to work in order to survive. The policy also facilitates labour exploitation and obscures the State’s lack of investment in public policies” (A/HRC/39/52/Add.1, paragraphs 4 and 30). With regard to the implementation of social programmes, the Committee notes the Government’s reference, among other measures, to the implementation of cash transfer programmes with co-responsibility “*Tekopora*” and “*Abrazo*”, and the pilot project “*Incubating Opportunities Family by Family*”, intended for people in extreme poverty. The Committee notes, based on the information available in the ILO technical report of 2018, that in 2016 the “*Tekopora*” programme covered 700,000 people in poverty. Around half of those covered were children, while responsibility under the programme was assumed in 76 per cent of cases by women and 88 per cent of the participants were in rural areas. Finally, the Committee notes the implementation of the socio-economic programme to support inclusion known as “*Tenodera*”, which has the objective of providing families with productive, financial and social resources to generate their own incomes. The ILO technical report indicates that in 2016 some 11,540 families participated, in 75 per cent of which responsibility was assumed by women. However, the Committee notes that, according to the report of the United Nations Special Rapporteur, “[s]ocial investment has dropped while structural problems perpetuate discrimination and the marginalization of vulnerable and indigenous peoples, compounding their vulnerability and leading to their entrapment in contemporary forms of slavery” (paragraph 30). ***The Committee therefore requests the Government to provide information on the measures adopted or envisaged with a view to giving priority to full, productive and freely chosen employment in all growth and development strategies. The Committee also requests the Government to provide detailed information, disaggregated by age, sex and region of the country, on the results achieved in terms of the generation of employment as a result of the implementation of government programmes.***

## Serbia

### ***Employment Policy Convention, 1964 (No. 122) (ratification: 2000)***

The Committee notes the Government’s report, as well as the observations made by the Confederation of Autonomous Trade Unions of Serbia (CATUS) and the Labour Union Confederation “*Nezavisnost*”, received on 7 November 2018. ***The Committee requests the Government to provide its comments in this respect.***

***Articles 1 and 2 of the Convention. Active labour market measures.*** The Government reports that the National Employment Strategy 2011–2020 sets out the main strategic objectives of its employment policy, which relate to the achievement of an efficient, stable and sustainable employment growth trend by 2020 and alignment of the national employment policy and labour market institutions with European Union requirements. It adds that the objectives to be attained include: promoting employment in less developed regions of the country and developing regional and local employment policies; improving the quality of the work force; developing the capacities of the relevant institutions, expanding active employment policy programmes and reducing duality in the labour market. In this context, the Government reports that the Active Employment Policy Measures (AEPMs) taken under the National Employment Action Plan for 2018 (NEAP 2018) are based on the situation and trends in the labour market, the needs of employers and the results of impact evaluations carried out with respect to previous measures taken. The Government indicates that the national employment policy focuses on groups in vulnerable situations who experience difficulties in finding employment, and which have been identified as “hard-to-employ” persons. The CATUS observes that persons belonging to these groups make up 70 per cent of those registered with the National Employment Service (NES), indicating that this implies an issue with labour demand. The Committee also notes the adoption of the Economic Reform Programme 2018–2020, which aims, inter alia, to enhance the effectiveness of AEPMs, focusing on young persons, redundant workers and the long-term unemployed. In addition, the Committee notes the information provided by the Government concerning the Employment and Social Reform Programme, which seeks to increase the employment rate and improve the status of young persons in the labour market. ***The Committee requests the Government to continue to provide updated detailed information on the impact of the policies and measures implemented to promote full, productive and freely chosen employment. In particular, the Committee requests information on the nature and impact of the activities carried out under the 2018 National Employment Action Plan. It also requests the Government to provide information on the impact of the measures taken, including under the Economic***

***Reform Programme 2018–2020, in tackling long-term and youth unemployment and promoting the employment of “hard-to-employ” persons.***

*Article 3. Consultations with the social partners.* Nezavisnost observes that, until 2017, constructive dialogue took place in the form of regular meetings of the Working Group for the development of the National Employment Action Plan. However, Nezavisnost indicates that, since that time, there has been a noticeable reduction in the quality and scope of tripartite dialogue, given that the social partners now participate in meetings only when they are requested to provide comments on documents that are already prepared. Moreover, Nezavisnost considers that the deadlines set for providing comments are insufficient to enable initiation of genuine dialogue. Nezavisnost reports that the last meeting of the Working Group for the development of the NEAP was held in October 2017, and that no meetings were held in 2018. In response to the Committee’s previous request, the Government reports that the local employment councils play a key role in supporting employment in less developed areas and that the employment action plans constitute key instruments of local employment policy. The Committee notes that, in 2017, the Ministry of Labour, Employment, Veteran and Social Affairs (MOLEVSA) and the National Employment Service (NES) held four regional meetings on the “Role of local government units in accomplishing employment policy objectives”. These meetings were attended by 166 representatives of 70 local government units, the NES and its branches, MOLEVSA, other institutions, the social partners, donors and experts. The meetings resulted in joint conclusions, in the form of guidelines for the development of employment policies on the basis of local trade market needs. The Government also reports that, in order to promote the AEPs to be implemented in 2018, four regional meetings were organized in cooperation with the Standing Conference of Cities and Municipalities, bringing together 134 representatives from NES branch offices and local government units. Nezavisnost observes that the local employment councils lack records concerning their membership, as well as of the level of participation of the social partners. ***The Committee requests the Government to provide more detailed information on the manner in which the experience and views of the social partners have been taken into account in the formulation and implementation of employment policy measures, and the outcome of this process. The Committee also requests the Government to indicate the nature and scope of consultations held with representatives of the persons affected by the measures taken, such as women, young people, persons with disabilities, the Roma population and other concerned groups, in relation to the formulation and implementation of active employment policies and programmes, as required under Article 3 of the Convention.***

## Spain

### ***Employment Policy Convention, 1964 (No. 122) (ratification: 1970)***

The Committee notes the observations made by the Trade Union Confederation of Workers’ Commissions (CCOO) and the General Union of Workers (UGT), received on 2 and 7 August 2018, respectively. The Committee also notes the observations of the Spanish Confederation of Employers’ Organizations (CEOE), included in the Government’s report. It also notes the Government’s responses to these observations, included in its report.

*Articles 1 and 2 of the Convention. Labour market trends and implementation of an active employment policy.* The Committee notes the approval on 15 December 2017 of the Spanish Strategy of Activation for Employment (EEAE) 2017–20, which sets out the activation policy of the National Employment System for the coming years and establishes a system of incentives under which the outcome of the evaluations of employment policies are related to the financing of Autonomous Communities. The EEAE 2017–20 provides that the services and programmes implemented by the public employment services shall be designed to achieve five strategic objectives: (i) promote activation and improve the employability of young people; (ii) strengthen the potential of employment as the principal instrument of social inclusion; (iii) promote a supply of training adapted to a changing labour market; (iv) improve the performance of public employment services through the modernization of the tools adopted by the National Employment System; and (v) adopt a holistic approach to activation policies by establishing areas for collaboration with employers, the social partners and other public and private agents. The EEAE is designed to be one of the three coordination tools of the National Employment System, together with the information system of public employment services and the Annual Employment Policy Plans (PAPE). In this regard, the Committee also notes the approval on 27 March 2018 of the Annual Employment Policy Plan for 2018, which specifies the objectives to be achieved during the course of the year and establishes forecasts for employment activation policy services and programmes proposed for implementation by public employment services, and the indicators to be used to assess the extent to which the objectives are achieved. The Plan forms part of a broader context of reforms introduced within the framework of the so-called “European Semester”, which include the National Reform Programme for 2018. The Committee also notes the information provided by the Government relating to the impact of the previous strategy (EEAE 2014–16). In particular, the Government indicates that, as a result of the EEAE 2014–16 and the improvement in the Spanish economy, since its approval, the number of employed persons rose by 2,980,600 (of whom 388,500 are under 30 years of age), the number of unemployed fell by 2,201,600 and the unemployment rate fell by 9.55 points. It adds that the percentage of jobseekers registered with public employment services who found a job in relation to the total number of jobseekers rose from 38.4 per cent in 2013 to 48.2 per cent in 2016. With regard to labour market trends, the Committee notes that, according to the Survey of the Active Population of the National Institute of Statistics (INE), the employment rate rose from 49.27 per cent in the third quarter of 2017 to 50.18 per cent in the third quarter of 2018, while the activity rate fell from 58.92 per cent to 58.73 per cent. Moreover, the unemployment rate fell from 16.38 per cent to 14.55 per cent. Nevertheless, in its observations, the CCOO indicates that a significant proportion of the decrease in the number of the

unemployed corresponds to the fall in the active population. It adds that most of the employment created is concentrated in very low productivity sectors and continues to be precarious and low quality. In this regard, the CCOO considers that the contracts that are being concluded continue in their majority to be temporary and indicates that in 2017 some 95 per cent of contracts were temporary or part-time. The CCOO alleges that the average duration of temporary contracts is continuing to fall and that the number of short- and very short-term temporary contracts is increasing, as is labour mobility. In its reply, the Government indicates that, although the majority of contracts concluded are temporary, in 2017, for the first time since the beginning of the recovery, net employment creation for employees with indefinite contracts (263,900) was higher than for those with temporary contracts (222,900). The Committee notes the emphasis placed by workers' organizations on the lack of sufficient resources for employment policies and their preparation without knowledge of the impact evaluation of previous labour market policies, which prevents possible shortcomings in their application from being identified. They also consider that the evaluation of the Annual Employment Policy Plan is undertaken through a system of indicators which only serve as a tool for the distribution of budgetary resources for active policies between Autonomous Communities on the basis of objectives. They add that this evaluation system does not permit an evaluation of the impact of employment policies and lacks a gender perspective. The CCOO, UGT and CEOE call for a systematic evaluation of the impact of employment policies so that resources are assigned for measures that have proved to be more effective in improving employability and vocational integration. ***The Committee requests the Government to provide an evaluation, undertaken in consultation with the social partners, of the impact of the employment measures adopted to achieve the objectives of the Convention, and particularly on the manner in which they helped the beneficiaries to obtain full, productive and lasting employment. The Committee also requests the Government to continue providing updated statistical information on labour market trends, and particularly on the active population, employment and unemployment rates, disaggregated by sex and age.***

***Youth employment.*** In its previous comments, the Committee requested the Government to provide an evaluation, undertaken in consultation with the social partners, of the employment measures to ascertain the specific results achieved through the Strategy for Entrepreneurship and Youth Employment and the Youth Guarantee System, particularly for young people with low skills. However, the Government has not provided information on this subject. The Committee notes that, according to the Survey of the Active Population, the employment rate for young persons under 25 years of age rose from 25.64 per cent in the third quarter of 2017 to 26.27 per cent in the third quarter of 2018, and the unemployment rate fell from 35.97 per cent to 33 per cent. Over the same period, the activity rate of that age group fell from 40.04 per cent to 39.21 per cent. The Government indicates that the strategic objectives of the EEAE 2017–20 include improving the employability and integration of young people under 30 years of age who are neither studying nor working through the assistance provided by the system. In this regard, the Government refers to the continued implementation of the programme, which has the objective of ensuring that all young people under 30 years of age receive a job offer, further education or a period of practice within a maximum period of four months after completing formal education or becoming unemployed. The Government adds that the changes made to the National Youth Guarantee System have made it possible to increase the number of persons registered to 1,096,798 young people in March 2018, of whom 470,032 found employment, which represents an employability rate of 43 per cent. Nevertheless, the CCOO considers that, although the youth employment statistics have improved in recent years, this is largely due to the fall in the youth population actively seeking employment and its emigration, which tends to improve unemployment and activity indicators. The Government indicates that this fall is also due to the evolution of the demographic pyramid and adds that the number of demotivated unemployed persons under 30 years of age in the second quarter of 2018 was 46 per cent lower than in the second quarter of 2014. However, the CCOO observes that measures have not yet been adopted with a view to the joint determination with the social partners of the Spanish Youth Entrepreneurship Strategy 2017–20, or a training and knowledge transmission programme in employment through replacement contracts, the preparation of a charter of non-labour practices and the development of a comprehensive programme of employment policy measures for unskilled young people, including the improvement of guidance services. The UGT observes that young people tend to have access to their first job through a temporary contract (in 2017, there were 2,338,800 young employed persons under 30 years of age with temporary contracts, accounting for 57 per cent of the total of employed persons with temporary contracts) and under precarious conditions. The UGT considers that initiatives for the creation of youth employment, such as the Youth Guarantee, are based on more precarious working conditions for young people. In this respect, the Committee notes that, according to the 2018 report on Spain prepared by the European Commission in the framework of the European Semester (SWD (2018) 207 final), there continue to be difficulties in the application of the Youth Guarantee, among which it emphasizes the difficulty of reaching out to young people neither in employment, nor in education or training (“NEETs”) and those who are most vulnerable, the limited capacity of public employment services to provide personalized action plans and high-quality job offers adapted to the profiles of young beneficiaries. Finally, the workers' organizations indicate that the Delegated Commission of the Youth Guarantee System provided information to the social partners on the outreach of the programme, but that, although there has been progress, the information provided was not adequate. In this regard, the CEOE considers that it is necessary to be provided with fuller information on the specific activities undertaken with the beneficiaries of the programme and their impact in terms of integration and increased employability as a means of evaluating the impact of such measures. ***The Committee therefore repeats its request to the Government to provide an evaluation, carried out in consultation with the social partners, of the employment measures to ascertain the specific results achieved through the measures adopted to promote youth employment, particularly for low-skilled young people, including those who are neither in employment, nor in education or training (“NEETs”).***

*Long-term unemployed.* In reply to the Committee's previous comments, the Government indicates that, according to the data of the Survey of the Active Population, 52.5 per cent of the unemployed in 2017 were long-term unemployed, of whom 73 per cent had been seeking work for over two years. The long-term unemployment rate increases for persons over 55 years of age, whose situation is frequently aggravated by their low skill levels. The Government reports on the implementation of the joint action programme for the long-term unemployed, adopted in 2016, which provides for the development of personalized integration plans adapted to the occupational profiles of the long-term unemployed with a view to accelerating their return to work. Moreover, the Activation for Employment Programme has been renovated and the unemployment rate required for the Vocational Reskilling Programme (PREPARA) to be automatically extended has been reduced from 20 to 18 per cent. Both programmes are intended for the long-term unemployed who are in receipt of a cash benefit conditional on their participation in active employment policies. The Committee also notes, based on the 2018 report on Spain prepared by the European Commission, that the effectiveness of activation policies for this category of persons largely depends on the capacity of the public employment services in the Autonomous Communities and their coordination with employers and social services, which are improving only slowly. According to the report, although the rate of the long-term unemployed escaping from their situation of unemployment increased from 8.6 per cent in 2013 to 10.7 per cent in 2015, only 8.7 per cent of all the long-term unemployed who were registered had concluded a labour integration agreement in 2016 (compared with an average of 56.2 per cent in the European Union). The CCOO considers that, according to the data of the public employment services, some 1.66 million unemployed persons are excluded from the unemployment protection system, and only 58 per cent of the registered unemployed (52 per cent of whom are women and 62 per cent men) have protection of any kind. It adds that poverty levels therefore continue to be very high and indicates that in the first quarter of 2018 there were 1,241,800 households in which all the active members were unemployed and that in 2017, there were 1,103,000 persons without income (wages, pensions or benefits). The UGT indicates that the employment policy measures are not adequate to address structural unemployment. In this regard, the UGT emphasizes the need to take action to attract inactive unemployed persons to the public employment services, develop guidance services with personalized plans and establish an integration agreement bringing together the rights and duties of both the unemployed and service providers. ***The Committee once again requests the Government, with the participation of the social partners, to provide an impact assessment of the measures adopted to facilitate the labour market return of the long-term and very long-term unemployed.***

*Education and vocational training programmes and policies.* In reply to the Committee's previous comments, the Government refers once again to Act No. 30/2015, of 9 September, regulating the in-work vocational training system for employment, which includes the objectives of guaranteeing the exercise of the right to training for workers, employees and the unemployed, and particularly those who are vulnerable. The Government reports the adoption of Royal Decree No. 694/2017, of 3 July, implementing the Act. The Committee notes the information contained in the Government's report on the various types of training that are provided, including programmed training by enterprises, and the provision of training courses for employed workers and the unemployed. With regard to the training programmes for the unemployed, the Government indicates that it is intended to programme, with a compulsory and non-binding report by the most representative employers' and workers' organizations, the provision of training for the unemployed adapted to the individual training needs of each worker and the requirements of the production system, with a view to them acquiring the skills required by the labour market and improving their employability. In addition to their participation in these programmes, unemployed workers will also be able to participate in the training available for employed workers. The Committee also notes, based on the information contained in the report of the European Commission, that people with higher qualifications encounter difficulties in finding appropriate jobs, and that both over-qualification and under-qualification are common in Spain. The proportion of people with higher qualifications in jobs which do not require higher education was 39.7 per cent in 2016 (the European Union average is 23.5 per cent). Finally, the Committee notes the observations of the social partners concerning vocational education and training programmes, which are examined in the context of the application of the Human Resources Development Convention, 1975 (No. 142). ***The Committee requests the Government to continue providing detailed information on the measures that are adopted or envisaged, in collaboration with the social partners, to improve skills levels and coordinate education and training policies with potential employment opportunities, particularly for disadvantaged or vulnerable groups.***

*Article 3. Consultation with the social partners.* In reply to the Committee's previous comments, the Government indicates that the EEAE 2017–20 is the product of dialogue and consensus with the social partners and the Autonomous Communities, within the framework of the various bodies on which they are represented, including sectoral conferences and the Dialogue Round Table of the Shock Employment Plan. Nevertheless, the CCOO denounces the failure to comply with the right to be informed and consulted through participatory and consultative bodies on which the social partners are represented. The CCOO indicates that the General Council of the National Employment System has not been convened. The UGT considers that there is a continued failure to give effect to this Article of the Convention, as there is no real participation in the design, evaluation and implementation of policies. Finally, the CEOE emphasizes once again that the social partners are not able to make observations prior to the preparation of the National Reform Programme and calls for more active participation in its preparation, application and evaluation. ***The Committee requests the Government to continue providing detailed information on the manner in which it is ensured that the social partners can participate actively in the design, implementation and evaluation of employment policies.***

## Thailand

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1969)**

*Articles 1 and 2 of the Convention. Implementation of an active employment policy. Labour market trends.* The Committee welcomes the detailed information communicated in the Government's report and its annexes. In its previous comments, the Committee requested the Government to provide information on the implementation of the 11th National Plan of Social and Economic Development for 2012–16 (11th Plan) with respect to employment promotion, including its impact on national labour market trends. The Government reports that the 11th Plan supported workforce development in balance with labour market demands through proactive measures that respond to the changing environment of the labour market and technological advancements. During the implementation of the 11th Plan, Thailand's services sector experienced continuous growth, particularly in tourism and related services. The Government indicates that the unemployment rate was 1.18 per cent in 2017 and that it increased, particularly in construction and manufacturing, partly due to the shift of workers from agricultural sector to non-agricultural sectors as a result of continuous drought during 2014–16. The Committee notes that, according to the Labour Force Survey (LFS) of the National Statistical Office, the unemployment rate declined to 0.9 per cent by the last quarter of 2018, while labour force participation reached 68.29 per cent. The Government refers to a series of employment promotion programmes implemented under the 11th Plan. In this respect, the Committee takes note of the establishment of Tri-Thep Centres for Improving Employment and Income Opportunities in 2013 to provide sustainable employment and lifelong career development, as well as the establishment of 87 Smart Job Centres nationwide in 2015, offering employment services as one-stop service centres. The Committee also notes that the Government established the M-Powered Thailand, an online career development website, and developed the Smart Labour Line Mobile Application to facilitate workers in digital age to access services provided. The Committee notes that 1,303,967 were employed through employment services provided during the period 2015–18, including 8,530 persons with disabilities. The Government promotes the employment for persons with disabilities pursuant to the Empowerment of Persons with Disabilities Act, B.E. 2550 (2007), and its amendment (No. 2) B.E. 2556 (2013). The Committee notes with *interest* the adoption of the 12th Social and Economic Development Plan (2017–21). ***The Committee requests the Government to communicate detailed information on the implementation of the 12th Social and Economic Development (2017–21) with respect to employment promotion. It also requests the Government to provide updated statistical data disaggregated by sex and age on the labour market situation, including trends in employment, unemployment and visible underemployment, as well as information on the size and distribution of the informal economy.***

*Article 3 of the Convention. Consultations with the social partners.* The Committee notes the Government's indication that tripartite consultations were held in relation to the development and adoption of the 11th Plan, as well as in relation to the draft development strategies incorporated into the "Labour Master Plan 2012–16". In particular, comments received from the tripartite partners were subsequently incorporated into the draft to better reflect stakeholders' perspectives and interests. The Government adds that the Ministry of Labour also held three public hearings to gather further inputs from stakeholders from four regions across the country. The comments and suggestions from the events were taken into account to improve the Plan, ensure its inclusivity and enhance its ability to respond to people's needs and demands of the labour market. ***The Committee requests the Government to continue to provide information on the consultations held with the social partners with regard to the development and implementation of active employment policy measures under the 12th Plan.***

*Migrant workers.* In response to the Committee's previous comments, the Government reports that, recognising the enormous contributions that migrant workers make to the Thai economy and its society, it has implemented a variety of measures to ensure adequate protection of labour rights and decent livelihood for all migrant workers in Thailand and to help accelerate the regularization of undocumented workers to enable them to access public services, legal protection and grievance mechanisms. From March 2015 to March 2018, the Government organized one-stop registration services via 88 One-Stop Service Centres across the country. As of July 2018, there are 3,420,595 migrants permitted to work in Thailand. The Committee takes note of the temporary stay extension granted for migrants working without work permits. In this context, the Government emphasizes the importance of adhering to regular migration pathways established through memorandum of understanding agreements (MOU agreements) between Thailand and countries of origin, which help ensure that incoming workers will not fall victims of illegal employment, labour exploitation, and labour trafficking. The Government reviewed and amended existing MOU agreements, with the Governments of Laos, Myanmar and Cambodia to make labour migration through MOUs channels more straightforward and compelling enough to be used as the standard mechanism for bringing in migrant workers to limit the possibilities of labour exploitation and human trafficking. The Government has organized an integrated operation to combat labour trafficking and exploitation, inter alia, through the Command Centre of Prevention on Labour Trafficking (CCPL) and the Labour Trafficking Operation Centres in 76 provinces. The Ministry of Labour also put forward updated legal measures (The Royal Ordinance/Decree on the Management of Foreign Workers Employment B.E. 2560 and its amendment (No. 2) B.F. 2561 (2018)) to respond to the current situation in labour migration by increasing penalties to dissuade both workers and employers from potential wrongdoings and deter repeated violations. The Government refers to a series of measures specifically targeted to reducing vulnerability of migrant workers. The Ministry of Labour has increased the frequency of multidisciplinary inspections in order to prevent and suppress labour exploitation in high-risk establishments. Furthermore, with the Cabinet Resolution dated 26 July 2016, three post-arrival and reintegration centres have been established to provide orientation trainings for

migrant workers entering for work in Thailand through MOU channels. Furthermore, the Committee notes the increased access to Government services through digital means, the introduction of a new web-based complaint channel “DOE help me” to allow complaint launching online and the Department of Employment’s Hotlines which comprise a convenient channel for Government information. The Ministry of Labour organized training courses for migrant workers and employers to raise awareness on their rights, duties, laws, regulations, tradition and culture. The Government indicates that migrant workers in Thailand have access to healthcare; either through the Social Security Fund or the Compulsory Migrant Health Insurance Scheme. The Government reports on a series of specific measures to protect fundamental rights of workers in the fishing industry. Because the majority of migrant workers employed in the fishing industry prior to 2014 were undocumented; therefore very vulnerable, the Government undertook multiple rounds of migrant fishers’ registration and renewals of fishers’ working status. The Government entered into negotiations with industry stakeholders to guarantee incentives for migrant fishers incoming under MOU arrangements, which were proven relatively successful as, in the first seven months of 2018, 2,151 migrants were recruited into fishing under MOUs. The Committee notes that the “Baseline research findings on fishers and seafood workers in Thailand, ILO 2018” emphasizes the importance of ensuring effective enforcement of the labour laws and other standards across multiple tiers of seafood supply chains, protecting workers and creating an industry level playing field. The Baseline suggests that the Thai Government and the Ministry of Labour should reorient the inspectorate to investigate, identify and punish violations of labour laws. The Committee notes that, in this regard, the Ministry of Labour has sought to make new tools available to inspectors and, from 2015 to 2016, collaborated with the ILO under different projects to provide trainings to officials to build capacity on labour inspection. The Government indicates that Port In – Port out Controlling Centres (PIPO) were established on 12 June 2015 to conduct fishing vessels inspections. Acknowledging that the rate of prosecutions nevertheless remained low, DLPW issued the Rules concerning Labour Inspection and Criminal Procedure against offences under the Ministerial Regulation on Labour Protection Sea Fishery Work (No. 2) B.E. 2561 effective from 15 July 2018. The Committee notes the establishment of a Fishermen’s Life Enhancement Centre (FLEC) with Stella Maris to improve the quality of life for workers in sea fishery and provides access to services and assistance for workers and victims of labour exploitation. The Committee also notes the establishment of Provincial Coordination Centres for Sea Fishery Workers in 22 provinces to encourage bringing in migrant workers through legal channels. Regarding overseas employment, the Government notes that in 2017 there were 168,438 Thai workers working overseas. The Ministry of Labour, through the Department of Employment provides overseas employment services for Thai workers as well as trainings and capacity building for workers in response to overseas labour market needs. The Ministry of Labour also implements projects, such as pre-departure orientation trainings, to assist and protect workers from falling victims of human trafficking and other forms of labour exploitation. The Committee notes that there are 13 overseas labour offices located in 12 countries which comprise a very important mechanism to ensure the protection of overseas Thai workers. ***The Committee requests the Government to continue to provide information on the impact of the measures implemented to address and resolve issues relating to migrant workers, especially those occupied in the fishing industry, including information on the labour violations identified in the supply chain, the sanctions imposed and the compensation awarded. It also requests the Government to continue to report on the measures taken or envisaged to prevent abuse and exploitation of migrant workers in Thailand.***

***Women. Prevention of discrimination.*** The Government indicates that women’s labour market participation rate stands at 60 per cent, but that women continue to face many cultural barriers to employment. The Government has taken a number of measures to increase women’s participation in the labour market. The Committee notes that the Ministry of Labour launched a nationwide promotional campaign for business establishments to dedicate an area as a “lactation corner” in 2006 and a promotional campaign for business establishments to create childcare centres in 2004. The Government indicates that the Ministry of Labour organizes International Women’s Day annually to raise awareness among government and social partners on the importance of women workers, decent work and workplace protection. The Committee takes note of the establishment of the Women’s Empowerment Fund on 23 June 2015, which provides financial support for activities aimed at empowering women. The Government indicates that it has developed and implemented legal mechanisms and procedures to prevent discrimination against women workers. The Committee notes the promulgation of the Gender Equality Act B.E. 2558 (2015) on 13 March 2015, which established the following mechanisms: the Gender Equality Promotion Committee (or the Sor-Tor-Por Committee), responsible for policymaking, determining measures, work plans and monitoring to ensure gender equality; the Committee on the Determination of Unfair Gender Discrimination; and the Gender Equality Promotion Fund, established to cover expenses used in promoting gender equality or to provide compensation for women, men, or LGBTQ persons who experience unfair treatment on the basis of their gender or sexual orientation. ***The Committee requests the Government to continue to provide information, including statistical data disaggregated by sex and age, on the impact of the measures taken to promote increased participation of women in the labour market at all levels, and to prevent discrimination in terms of employment.***

***Informal economy workers.*** The Government indicates that the number of informal workers in Thailand increased from 32.48 per cent in 2012 to 36.24 per cent in 2016. The Government indicates that social security and welfare coverage was extended under the 11th Social and Economic Development Plan, making it more inclusive and more easily accessible for informal workers. It adds that, as a consequence, the ratio of informal workers with access to social security benefits increased from 3.7 per cent in 2011, the last year of the 10th Plan, to 10.75 per cent at the end of the 11th Plan. The Committee also notes that skills development training provided under the Skills Development Promotion Act B.E. 2545, aims to improve the employability of persons belonging to target groups, including informal workers. ***The Committee***

*requests the Government to supply information, including disaggregated data, on the impact of the measures implemented to promote the transition to formal employment and extend access to social security benefits to workers in the informal economy. Referring to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), the Committee reiterates its request that the Government include information on the nature and impact of measures taken to facilitate the transition of informal workers from the informal economy to the formal labour market.*

## Ukraine

### **Employment Policy Convention, 1964 (No. 122) (ratification: 1968)**

*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.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 2** (Malta, Montenegro); **Convention No. 88** (Belize, Guinea-Bissau, Lebanon, Libya, Madagascar, Mali, Malta, Mongolia, Mozambique, Netherlands: Aruba, Netherlands: Sint Maarten, Nicaragua, North Macedonia); **Convention No. 96** (Libya, Malta); **Convention No. 122** (Barbados, Cambodia, El Salvador, Guinea, Iraq, Lebanon, Mongolia, Netherlands: Aruba, Netherlands: Sint Maarten, Nicaragua, North Macedonia, Papua New Guinea, Paraguay, Saint Vincent and the Grenadines, Senegal, Serbia, Slovenia, Tajikistan, Thailand, Trinidad and Tobago, Uruguay, Viet Nam, Zambia); **Convention No. 159** (Lebanon, Madagascar, Mongolia, North Macedonia, San Marino); **Convention No. 181** (Mali, Mongolia, North Macedonia).

## Vocational guidance and training

### Guyana

#### **Paid Educational Leave Convention, 1974 (No. 140) (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.

*Articles 2 and 6 of the Convention. Formulation and application of a policy designed to promote the granting of paid educational leave.* The Committee recalls that, for many years, it has been requesting the Government to provide information on the measures taken to give effect to the Convention. In its report, the Government provides summaries of court decisions relevant to the granting of paid educational leave in the public service sector. The Government indicates that training in the private sector is undertaken on the basis of a company's needs, such as succession planning, human resource needs and upgrading of technology, whereas training is implemented through scholarships in the public sector. Training is provided on the basis of the projected labour needs of the Government and training opportunities are advertised within the various Ministries and agencies as well as in national newspapers. The Committee once again recalls that the Convention requires the Government to formulate and apply a policy designed to promote, by methods appropriate to national conditions and practice and by stages as necessary, the granting of paid educational leave for the purpose of occupational training at any level, general, social and civil education and trade union education (*Article 2*) in consultation with the social partners (*Article 6*). **Noting that the information provided in the Government's report does not indicate the manner in which Article 2 of the Convention is given effect, the Committee requests the Government to indicate the content and scope of the policy to promote the granting of paid educational leave for the purposes specified in Article 2 of the Convention and to communicate the texts, including government statements, declarations and other documents, in which the policy is expressed. In addition, the Committee once again reiterates its request that the Government provide full particulars on the measures taken or envisaged in order to give effect to these provisions of the Convention.**

*Articles 5 and 6. Arrangements for paid educational leave through collective agreements. Consultation with the social partners.* The Committee notes the Government's indication that the National Tripartite Committee established in 1993 has constituted a subcommittee to deal with training and placement issues. It adds that there is no information available on the manner in which the public authorities, representative employers' and workers' organizations and institutions providing education or training have been consulted on the formulation and application of the national policy to promote the granting of paid educational leave for the purposes specified in the Convention. The Government states that the social partners make provision for some measure of paid educational leave in the private sector through the bargaining process. **The Committee requests the Government to provide information on the arrangements to enable the participation of employers' and workers' organizations and institutions providing education or training in the formulation and application of the national policy for the promotion of paid educational leave for the purposes specified in Article 2 of the Convention.**

*Article 8. Non-discrimination.* The Government indicates that training under *Article 2(a)* includes training for apprentices and groups in vulnerable situations. In this regard, the Committee notes that the Industrial Training Act, Chapter 39:01, referenced in the Government's report, regulates apprenticeships, but that section 3(1) of the Act refers only to male apprentices (*boys*). The Government does not provide information regarding training for groups in vulnerable situations. **The Committee requests the Government to provide information, including statistical data disaggregated by sex, on the apprenticeship training opportunities available to boys and girls. Noting that section 3(1) of the Industrial Training Act could be interpreted to exclude girls, it also invites the Government to consider amending the Act to extend apprenticeships to both male and female apprentices. It also requests the Government to provide particulars regarding the measures taken to ensure that groups in vulnerable situations have access to paid educational leave.**

*Application of the Convention. Part V of the report form.* **The Committee requests the Government to provide a general appreciation of the manner in which the Convention is applied, including, for instance, extracts from reports, studies and enquiries, and statistics disaggregated by sex and age on the number of workers granted paid educational leave during the reporting period.**

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

### Republic of Korea

#### **Human Resources Development Convention, 1975 (No. 142) (ratification: 1994)**

The Committee notes the observations of the Federation of Korean Trade Unions (FKTU) received on 17 September 2018 and the Government's reply thereto, communicated together with its report. The Committee further notes the observations of the Korean Confederation of Trade Unions (KCTU) received on 31 August 2018. **The Committee invites the Government to provide its comments in respect to the observations of the KCTU.**

*Article 1(3) of the Convention. Policies and programmes appropriate to national conditions.* In reply to the Committee's previous comments requesting further information on the implementation of the Work-Learning Dual System established in 2014, the Government reports that the system combines in-class education and training with hands-on work experience. The Government indicates that, as of May 2018, 12,493 enterprises had been selected as dual training providers, and 67,307 participants had benefited from the training. The Government also indicates that, to achieve a workforce tailored to industry-specific needs, 17 Industry-Specific Human Resources Development Committees (ISCs) were established in September 2016, in which 456 associations, organizations and businesses participate. At the regional level, the Government built an industry-specific infrastructure, which includes: 70 Work-Learning Dual Training Centres for workers in small and medium-sized enterprises (SMEs); specialized support institutions for quality control and promotion of the Work-Learning

Dual System; and industry-specific Special Apprenticeship Zones. The system has expanded its scope to include the newly employed, as well as students in vocational high schools, universities and other educational institutions. The Committee notes the Government's indication that a draft law to regulate the Work-Learning Dual System was submitted to the National Assembly in 2016, containing provisions concerning the training environments provided by employers, setting out protections for workers who are also learners and providing for certification for apprentices. The Committee also notes the adoption of an Amendment to the Vocational Education and Training Promotion Act (VETPA), with the objective of protecting the rights of vocational students and trainees and building a safer training environment. In its observations, the FKTU maintains that the status of a learning worker is more vulnerable than that of an ordinary worker, indicating that the introduction of a "learning employment contract" proposed by the Government would be inappropriate and potentially lead to abuses. In its reply to the FKTU, the Government indicates that both categories of workers in fact have the same legal status and enjoy the same protections, and that the learning employment contract stipulates training-related matters, such as hours and content, and is in addition to the statutory content of an ordinary employment contract. The Committee also notes the observations made by the KCTU, alleging that, despite the requirement of section 9 of the amended VETPA that employers use the standard contract template approved by the Ministries of Education, Labour and SMEs, employers commonly – and with impunity – write up and maintain different contracts for on-site student trainees. The KCTU also alleges that the SME Vocational Training Consortium Program is being misused in that large corporations are using it as a vehicle to illegally source workers via subcontractors, rather than hiring full-time workers of their own. ***The Committee requests the Government to provide updated detailed information, including disaggregated statistical data, on the functioning of the Work-Learning Dual System, including on the activities of the Industry-Specific Human Resources Development Committees, the Work-Learning Dual Training Centres and the industry-specific Special Apprenticeship Zones and their impact on participants' access to lasting employment indicating the starting wages received by participants, the average period of time between completion of the training and employment as well as the nature of the employment secured (full-time, part-time, fixed or short-term, or permanent). The Committee further requests the Government to provide detailed information on measures taken or envisaged to adapt continuously technical and vocational training to sector-specific labour market needs. It further requests the Government to provide a copy of the Amendment to the Vocational Education and Training Promotion Act (VETPA) and on any other measures adopted by the National Assembly relevant to the application of the Convention, including in relation to the Work-Learning Dual System.***

*Article 1(5) of the Convention. Equality of opportunity and treatment.* The Committee notes the information provided by the Government in response to its 2013 direct request concerning vocational education and training opportunities for specific groups.

*Young persons.* The Government refers to a number of Work-Learning Dual Programmes targeting young persons. In 2018, these Programmes included: 194 Industry-Academia Partnership Apprenticeship Schools where students at specialized high schools start apprenticeships at enterprises while continuing their studies; 16 Uni-Tech Programmes that strengthen links between vocational educational courses by integrating the curricula of specialized high schools and junior colleges; the Industry Professional Practice (IPP) Work-Learning Dual System implemented in 38 schools; and the Pathways in Technical Education Convergent Hi-Technology (P-TECH) model used in 13 schools for intensive vocational training. In its observations, the KCTU refers to a report issued by the Board of Audit and Inspection (BAI), "Implementation of Educational Policies Supporting Workforce Development", indicating that, in 2015, 20.5 per cent of high school seniors in three educational offices were dispatched to workplaces of no relevance to their studies as a form of cheap labour. The KCTU further maintains that, in 2013, 15 high schools dispatched 36 students to hazard-prone businesses, such as semiconductor plants and factories that handle first-grade carcinogenic substances. The KCTU alleges that high school students are exposed to bullying, sexual harassment, burnout and stress at workplaces where they train and that they are both overworked and underpaid. In addition, the KCTU maintains that students have been used to illegally replace striking workers. Additionally, due to Ministry of Employment Regulation 26 on the Enforcement Directive for the Employer-Commissioned Training of College Students, students are forced to remain at their jobs training or face expulsion from school, leading to situations of forced labour. ***The Committee requests the Government to provide more information on measures taken or envisaged to safeguard the rights of young people in vocational training programmes. In addition, the Committee draws the attention of the Government to Paragraphs 18 and 19(f) and (g) of the Human Resources Development Recommendation, 2004 (No. 195), and requests the Government to provide statistics, disaggregated by gender and age and other socio-economic indicators, on the impact of vocational training provided to young persons, including on the level of starting wages received by young persons after completing the training, and the period of time between completion of training and their entry into employment, compared to persons who have not undergone such trainings.***

*The new middle-aged who need re-employment support; the self-employed who are more likely to change their jobs; and workers in special employment types.* The Government reports that in 2018, Korea Polytechnic provided several programmes for 300 students categorized as the new middle-aged, including electric system control, senior healthcare and air-conditioning and refrigeration. The Government further reports that the Tomorrow Learning Card System was implemented for workers in special employment relationships. ***The Committee requests the Government to provide a definition of the new middle-aged and of workers in special employment relationships. The Committee further requests the Government to provide more information on the activities and impact of the Tomorrow Learning Card System.***

**Women.** The Government indicates that the Korea Polytechnic runs vocational training for women returning to work after having taken career breaks. In 2018, four special campuses offered seven courses focused on re-employment training in the beauty and care industries, in which 950 women participated. The KCTU observes that women are subjected to discriminatory working environments that include wage gaps, sexual harassment, gender-streamed training and higher barriers to accessing the job market. Additionally, the workers' organization alleges that the Government is alienating women from securing employment by forcing them into jobs where they work short hours (less than 15 hours a week), preventing them from obtaining regular employment status as defined in the Act on the Protection of Fixed-Term and Part-Time Workers (APFPW). The Committee notes that the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) has expressed concern at the "persistence of the gender gap in pay (amounting to a difference of 35.4 per cent in 2016) ... which remains the widest among all OECD countries". Furthermore, the CEDAW Committee noted that 70.2 per cent of short-time workers in the State party are women with limited protection under the Korean Labour Standards Act and the APFPW. Women in this situation may only enrol in the national pension scheme as individually insured persons and in employment insurance programmes only after three months of continuous employment. (CEDAW/C/KOR/CO/8, March 2018, paragraph 38). Furthermore, the Committee notes that section 6 of the Labour Standards Act prohibits discrimination against workers on the basis of gender and discriminatory treatment in relation to terms and conditions of employment. ***The Committee requests the Government to provide information on activities and measures taken or envisaged to provide women with vocational guidance, education and training, and the impact of such measures on women's access to full, productive, freely chosen and lasting employment. The Committee encourages the Government to develop and implement a policy aimed at ensuring that vocational guidance and training provided to women is available with respect to all occupations.***

**Persons with disabilities.** In its observations, the KCTU notes that sections 6 and 7 of the Minimum Wage Act allows employers to pay workers with disabilities less than the minimum wage. The KCTU maintains that the Government has granted the requests made by 97.9 per cent of those employers having applied for authorization to pay a worker with disabilities less than the minimum wage, pursuant to the Guide on the Permission of Employers Not to Pay the Minimum Wage to Disabled Workers. ***The Committee refers to its comments concerning the application of the Employment Policy Convention, 1964 (No. 122), and invites the Government to provide information on measures taken to encourage and enable all workers to access employment opportunities without discrimination. The Committee further requests the Government to provide information on the manner in which sections 6 and 7 of the Minimum Wage Act impact persons with disabilities and how the Government is ensuring the application of equality of opportunities and treatment in the workplace for workers with disabilities.***

**Article 3(2) and (3). Vocational guidance information. Lifelong learning.** The Government reiterates that its online platform, Work-Net, assists people with occupational information and career development advice by providing information on 130 academic departments. Additionally, the Government published 86,000 copies of books on new occupations and 65,000 copies of promotional guidance materials from 2014 to 2017. In its observations, the FKTU maintains that there is a significant shortage of personnel that provide employment support in the public employment service (PES). In its response to the FKTU, the Government acknowledges that, due to factors such as workforce shortages, the functions of job-matching between employers and jobseekers and placement services in PES centres has weakened. To improve the performance of the PES, the Government undertakes to continue its efforts to reinforce infrastructure in order to strengthen the counselling function of the PES centres. It also undertakes to establish and implement an Employment Centre innovation plan to focus on employment support. ***The Committee invites the Government to continue to supply updated detailed information on the activities of the PES information system, particularly with regard to the development of information and guidance relating to choice of occupation, access to vocational education and training – including lifelong learning – and related educational opportunities to assure the effectiveness of vocational guidance policies. In addition, the Government is requested to provide information on the measures taken to promote quality vocational education and training that is inclusive and available to all.***

**Article 5. Cooperation with employers' and workers' organizations.** The Government reports that, in 2015, in concluding the Tripartite Jobs Pact, the tripartite partners agreed to establish a Regional Joint-Training Network to develop human resources services tailored to regional needs. Thereafter, 16 Regional Human Resource Development (HRD) Committees were established in metropolitan areas. In July 2015, the local area and industry-specific HRD system was put in place, whose functions include analysing labour market demand and providing for joint training and hiring. The Committee notes the FKTU's observation that worker representatives do not head any of 16 HRD Committees and that some of the HRD Committees have no worker representatives. In its response, the Government indicates that, as of August 2018, worker representatives have been co-chairing two of the Regional HRD Committees, adding that worker representatives participate in all 16 Committees. ***The Committee invites the Government to provide more information on the composition of the 16 regional HRD Committees as well as the 17 industry-specific committees. The Committee also invites the Government to provide more information on the manner in which the cooperation of employers' and workers' organizations and, where applicable, other interested bodies, is ensured in the formulation and implementation of vocational guidance and vocational training policies and programmes.***

## Netherlands

### **Human Resources Development Convention, 1975 (No. 142) (ratification: 1979)**

The Committee notes the joint observations of the Netherlands Trade Union Confederation (FNV), the National Federation of Christian Trade Unions (CNV) and the Trade Union Federation for Professionals (VCP), received on 28 August 2018. **The Committee invites the Government to provide its comments in this respect.**

*Articles 1–5 of the Convention. Formation and implementation of education and training policies and cooperation with the social partners.* In response to the Committee's previous comment requesting information on activities undertaken in relation to the development of comprehensive and coordinated policies and programmes of vocational guidance and training, the Government refers to an amendment to the 2015 Education and Vocational Training Act. The amended Act focuses on increasing the macro-efficiency of upper secondary vocational training institutes and establishes a 70 per cent employment target for graduates within the first year after graduation. Additionally, according to a 2016 report by the European Centre for the Development of Vocational Training (CEDEFOP), the macro-effectivity policy for upper-secondary vocational education and training (VET) seeks to eliminate overlaps in the regional provision of VET and avoid competition between providers. The objective of the policy is to arrive at an optimal offer of qualifications at national and regional levels to meet labour market needs effectively and efficiently. The report notes that, in 2016, a review of the qualifications framework resulted in a 25 per cent reduction in the number of qualifications, on the basis that this reduction would make it easier for students to select a programme while increasing the efficiency of VET institutes. The Government further reports that, in 2016, the Ministry of Education launched a programme to improve: the quality of vocational guidance; the coordination of transitions from school to work; and the dissemination of VET information. In their observations, the workers' organizations maintain that the Government is moving away from lifelong learning programmes, leaving workers' organizations with the burden of providing such training for workers. They also refer to the 2017 *OECD Skills Strategy Diagnostic Report*, challenge 9, which states that all stakeholders in the Netherlands should broaden their skills policy dialogue in order to meet the needs of an increasingly diverse society, engaging with groups that are underperforming in the development, activation and use of skills. Additionally, the workers' organizations observe that the amended Act on Adult and Vocational Education has resulted in local governments outsourcing training from the private sector, as they are no longer required to use regional VET training centres. The workers' organizations maintain that, therefore, national public quality assurance for training in basic skills no longer exists. They add that, in 2014, a new subsidy scheme replaced the Wage Tax Relief Act, allowing employers to pay lower taxes for employees engaged in vocational training. In response to the Committee's previous comment concerning the 2012 Agreement on Accreditation of Prior Learning (APL), the Government reports that, in collaboration with the Labour Foundation, a new agreement was developed for the 2016–21 period. The APL consists of a labour market route and an education route. The labour market route caters to individuals who want to validate their knowledge and skills to help them find different employment opportunities. The education route is for individuals to validate their knowledge and skills in order to obtain a diploma in formal education by way of a shortened pathway. The Government reports that the social partners are working together to optimize the links between the labour market and educational routes. The Committee further notes the joint observations made by the FNV, CNV and VCP indicating that, in 2016, the Government no longer supported the labour market route which leads to training that does not support the needs of working people. The Committee also notes the workers' representatives mention of challenge 6 of the *OECD Skills Strategy Diagnostic Report* indicating that the Government should consider introducing stronger and more targeted public investment to boost participation in the APL. **The Committee requests the Government to provide a copy of the 2015 Education and Vocational Training Act, as well as information on progress made in achieving the 70 per cent target envisaged in the Act. The Committee further requests the Government to provide detailed information, including statistical information disaggregated by sex and age, on the impact of the labour and education routes of the APL, particularly with regard to the benefits of the training offered, such as licensing and enhanced qualifications for those in the education route and enhanced job prospects and job retention for participants in the labour route. The Committee also invites the Government to provide updated information on measures implemented to promote access to vocational education, guidance and lifelong learning on lasting employment for specific groups, particularly women, young persons and the long-term unemployed (Article 4 of the Convention). Additionally, the Committee requests the Government to continue to provide information on the manner in which the cooperation of employers' and workers' organizations is ensured in the formulation and implementation of vocational training policies and programmes.**

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 140** (Afghanistan, Azerbaijan, Belize, Brazil, Czech Republic, Germany, Guinea, Hungary, Montenegro, Netherlands: Aruba, North Macedonia, Russian Federation, San Marino, Serbia, Slovenia, Spain, United Republic of Tanzania, Ukraine, United Kingdom, Zimbabwe); **Convention No. 142** (Afghanistan, Algeria, Antigua and Barbuda, Azerbaijan, Belarus, Bosnia and Herzegovina, Brazil, Czech Republic, Ecuador, Egypt, El Salvador, Fiji, France, France: French Polynesia, France: New Caledonia, Guyana, India, Islamic Republic of Iran, Iraq, Ireland, Japan, Kenya, Lebanon, Lithuania,

*Luxembourg, Republic of Moldova, Montenegro, Netherlands: Aruba, North Macedonia, Norway, Portugal, Russian Federation, Serbia, Spain, Tajikistan, United Republic of Tanzania, Tunisia, Ukraine).*

The Committee noted the information supplied by the following State in answer to a direct request with regard to:  
**Convention No. 142 (Slovakia).**



## Employment security

### Cameroon

#### Termination of Employment Convention, 1982 (No. 158) (ratification: 1988)

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 General Union of Workers of Cameroon (UGTC), received on 17 October 2016, and the Government's reply, received on 15 February 2017. It also notes the observations of the Cameroon United Workers Confederation (CTUC), received on 22 November 2016. *The Committee requests the Government to provide its comments in this regard.*

**Article 2 of the Convention. Exclusions.** In its previous comment, the Committee noted the Government's indications that domestic workers and workers in the informal economy belong to the categories of workers that are subject to special regulations or a special scheme. The Government added that workers subject to special regulations are not considered as workers covered by the Labour Code of 1992. The Committee therefore asked the Government to continue to take all possible steps to ensure that domestic workers and workers in the informal economy enjoy adequate protection in the spheres covered by the Convention. The Government indicates in its report that the Convention is applied uniformly in Cameroon and that no category of wage employees is excluded from its scope. *The Committee requests the Government to provide copies of the legislative texts that apply to domestic workers in relation to the Convention. The Committee also requests the Government to provide detailed information on the manner in which it ensures adequate protection in the spheres covered by the Convention to workers in the informal economy.*

**Article 8. Procedure of appeal.** The Committee notes the observations of the CTUC, which considers that the terminations of workers in certain enterprises were not in conformity with the procedure established under national legislation, since no authorization for termination had been sought or granted by the labour inspector. *The Committee requests the Government to reply to the observations of the CTUC regarding the termination of workers' employment.*

**Article 11. Notice period.** The Committee notes the observations of the CTUC indicating that, in practice, employers terminate the employment of workers without observing the obligation to give a notice period as established by section 34(1) of the Labour Code. The Committee notes that the Government's report does not reply to the CTUC's concerns. *The Committee reiterates its request that the Government provide its comments on the observations of the CTUC, indicating the manner in which it is ensured that workers are provided with reasonable notice of termination.*

**Article 12(3). Definition of serious misconduct.** The Committee previously noted that serious misconduct was not defined by the Labour Code but by case law. The Committee notes the observations of the CTUC indicating that, in national practice, the employer unilaterally defines the degree of seriousness of the misconduct, whereas under Cameroonian law only the judge is empowered to do so. The CTUC adds that a number of companies have engaged in this practice and therefore invites the Government to revise the Labour Code. *The Committee requests the Government to reply to the observations of the CTUC, clarifying the definition of serious misconduct. It also requests the Government once again to provide examples of court decisions which allow an evaluation of the application of Article 12(3) of the Convention.*

**Articles 12–14. Severance allowance. Consultation of workers' representatives. Terminations of employment for economic, technological, structural or similar reasons.** In its previous comments, the Committee asked the Government to indicate whether the dismissed workers had been paid their severance allowance and to provide information on all measures taken to alleviate the adverse effects of dismissals, such as those envisaged in Paragraphs 25 and 26 of the Termination of Employment Recommendation, 1982 (No. 166). The Government indicates in its report that section 40 of the Labour Code of 1992 refers to this subject. Accordingly, the Committee notes that section 40(3) of the Labour Code establishes an obligation for the employer to call a meeting of staff delegates and the labour inspector to try to avoid any termination on economic grounds. It also notes that section 40(9) of the Labour Code provides that any worker whose employment has been terminated shall be given priority status, where skill levels are equal, for two years with regard to recruitment in the same enterprise. As regards consultation of workers' representatives in the event of terminations on economic grounds, the Government indicates that Order No. 22/MTPS/SG/CJ establishing procedures governing terminations on economic grounds gives effect to *Article 13(1)* of the Convention. In its previous comment, the Committee noted the communication from the UGTC indicating the termination of the employment of a number of young persons at the National Social Security Fund (CNPS) without prior notification in writing or payment of damages. In its observations of 2016, the UGTC indicates that the situation of the dismissed CNPS workers has not changed and that there has been a resurgence of terminations, particularly in a number of local companies. *Referring to its previous comments, the Committee requests the Government once again to indicate whether the workers dismissed from the CNPS and from the local companies referred to in the observation of the UGTC have been paid their severance allowance. It also requests the Government to send a copy of Order No. 22/MTPS/SG/CJ establishing procedures governing terminations on economic grounds. The Committee further requests the Government to continue providing information on any measures taken to alleviate the adverse effects of dismissals, such as those envisaged in Paragraphs 25 and 26 of Recommendation, No. 166.*

**Application of the Convention in practice.** *The Committee requests the Government once again to supply statistics on the activities of the appeal bodies and the number of terminations on economic grounds. It also requests the Government to provide up-to-date information on the application of the Convention in practice. Referring to its previous comments on valid and invalid grounds for termination and the defence procedure prior to termination, the Committee requests the Government to send examples of court decisions which allow an evaluation of the application of Articles 4, 5 and 7 of the Convention.*

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

### Papua New Guinea

#### Termination of Employment Convention, 1982 (No. 158) (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 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.*

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 158** (*Republic of Moldova, North Macedonia, Saint Lucia*).

## Wages

### Plurinational State of Bolivia

#### **Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1977)**

The Committee notes the observations of the Confederation of Private Employers of Bolivia (CEPB) and the International Organisation of Employers (IOE), received on 26 April and 3 September 2019, as well as those of the International Trade Union Organization (ITUC) received on 1 September 2019.

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes that based on its follow-up, in its last comments, of the conclusions of the Conference Committee on the Application of Standards (hereinafter Conference Committee) adopted in June 2018 on the application of the Convention, the Conference Committee examined the case for the second time in June 2019.

*Articles 3 and 4(1) and (2) of the Convention. Elements for the determination of the level of the minimum wage and full consultation with the social partners.* In its last comments, the Committee observed that while the Government stated that consultations were held with the social partners, the CEPB and the IOE claimed the opposite. The Committee also observed that there were divergences between the Government and the above-mentioned employers' organizations regarding the criteria reportedly taken into consideration in determining the minimum wage. In this context, the Committee expressed the firm hope that, in follow-up to the conclusions of the Conference Committee of June 2018, a direct contacts mission would take place without delay with a view to finding a solution to the difficulties faced in the application of the Convention. The Committee notes that, in 2019, the Conference Committee regretted that the Government had not responded to all the Conference Committee's conclusions in 2018, specifically the failure to accept a direct contacts mission. Therefore, in its 2019 conclusions, the Conference Committee once again urged the Government to: (i) carry out full consultations in good faith with the most representative employers' and workers' organizations with regard to minimum wage setting; (ii) take into account when determining the level of the minimum wage the needs of workers and their families, as well as economic factors as set out in *Article 3* of the Convention; (iii) avail itself without delay of ILO technical assistance to ensure compliance with the Convention in law and practice; and (iv) accept an ILO direct contacts mission before the 109th Session of the International Labour Conference. The Committee notes that the Government indicates in its report that: (i) a direct contacts mission is not necessary given that no difficulties are faced in the application of the Convention; (ii) the Bolivian Central of Workers (COB) annually presents a list of recommendations containing, among other issues, a proposal of increase in the national minimum wage; (iii) the same cannot be said of the CEPB, since Section 10 of its Statute provides that the confederation shall not assume the legal representation of its members, for the negotiation or settlement of individual labour disputes; (iv) nevertheless, the annual minimum wage increase takes into consideration the positions of workers and employers, with which the Government is promoting regular dialogue, based on good faith and respect, and consultation, as demonstrated by the round-table meetings established with the representatives of the CEPB and the COB; and (v) the determination of the national minimum wage level is based on economic and social factors taking into account inflation and productivity, as well as other economic indicators, inter alia, Gross Domestic Product (GDP), GDP per capita, the consumer price index, economic growth, unemployment rates, market fluctuations and the cost of living. Furthermore, the Committee notes that the CEPB and the IOE reiterate in their last observations, as they had done in the discussion in the Conference Committee, that: (i) the Government maintains dialogue and negotiates with workers' organizations, particularly with the COB, preventing the employers' sector to participate in consultations on the national minimum wage and to formulate proposals and criteria in this regard; and (ii) in fixing the minimum wage, the Government does not take into account objective technical criteria reflecting the economic reality of the country, such as productivity. Finally, the Committee notes that the ITUC, referring to the various social and economic factors taken into account in fixing the minimum wage, indicates that Bolivia is the country that has increased the minimum wage the most over the present decade in Latin America, without affecting the most relevant macroeconomic variables and without inflationary consequences.

The Committee observes that contradictions and divergences persist between the Government and the CEPB concerning the full and good faith consultations with the employers' representative organizations, and the criteria taken into account in determining the minimum wage. In this context, the Committee *regrets* to note the Government's refusal to accept a direct contacts mission to the country with a view to finding a solution to the difficulties faced in the application of the Convention. *Recalling once again that these missions constitute an effective form of dialogue designed to find a positive solution to the issues in question, the Committee expresses the firm hope that the Government will review its position and that a direct contacts mission will take place before the 109th Session of the International Labour Conference, as requested by the Conference Committee.*

*[The Government is asked to reply in full to the present comments in 2020.]*

## Burundi

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1963)**

*Article 3 of the Convention. Operation of the minimum wage-fixing machinery.* In its previous comments, the Committee recalled that the last decree fixing the guaranteed inter-occupational minimum wage (SMIG) was adopted in 1988. It urged the Government to take all the necessary measures to reactivate without delay the review process of minimum wage rates, as provided for in section 249 of the Labour Code, and to carry out a readjustment of the SMIG in the light of this review. It also requested the Government to provide information on the minimum wages applicable to various categories fixed by collective agreements in the various branches of activity or in enterprises. The Committee notes that the Government refers in its report to the measures adopted in the public sector following the studies carried out in 2012 on wage policy and job classification, including the adoption of a wage adjustment for the period 2016–2019. However, with regard to the SMIG, the Government indicates that it will be reviewed as a matter of priority following the adoption of the revised Labour Code. The Committee recalls that section 249(1) of the Labour Code provides that the National Labour Council shall be consulted to consider the elements that may serve as a basis for fixing the minimum wage and conducting an annual review of minimum wage rates. ***In this context, the Committee is bound to reiterate its request to the Government to take all the necessary measures to reactivate the minimum wage review process immediately, as provided for in section 249 of the Labour Code, and to carry out a readjustment of the SMIG in the light of this review. It also requests the Government to provide information in this respect, as well as on the minimum wages applicable to the various categories as determined by collective agreements in the various branches of activity or in enterprises.***

*[The Government is asked to reply in full to the present comments in 2020.]*

## 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)**

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 wage*

*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.**

## Costa Rica

### Protection of Wages Convention, 1949 (No. 95) (ratification: 1960)

*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.* Further to its previous comments on the need to amend section 165 of the Labour Code, which provides that coffee plantations may pay workers with tokens representing legal tender, the Committee notes that the Government refers in its report to the action taken by the Ministry of Labour and Social Security (MTSS) in 2016 in this area, including consultation with the Ministry of Agriculture. However, the Committee notes that the above-mentioned legal provision has still not been amended and information has not been provided on specific measures adopted in this respect. **The Committee requests the Government to adopt without delay the necessary measures to amend section 165 of the Labour Code, and to guarantee that the prohibition of the payment of wages in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender, is effectively applied to all workers, including those employed on coffee plantations. The Committee requests the Government to provide information regarding the adoption of such measures.**

*Article 4(2)(b). Fair and reasonable value attributed to allowances in kind.* In its previous comments, the Committee requested the Government to take the necessary measures to amend section 166 of the Labour Code, under which the value of allowances in kind is fixed at 50 per cent of the cash wages if no other amount has been determined between the parties, which is not in compliance with Article 4(2)(b), as the above-mentioned provision does not guarantee that the value attributed to allowances in kind is fair and reasonable. In this regard, the Committee notes the information provided by the Government on the action taken by the MTSS in 2017, including a request for this issue to be examined by the National Wages Council. However, the Committee notes that the legal provision in question has still not been amended and information has not been provided on specific measures adopted in this respect. **The Committee requests the Government to adopt the necessary measures without delay to amend section 166 of the Labour Code and effectively guarantee that the value attributed to allowances in kind is fair and reasonable. The Committee requests the Government to provide information regarding the adoption of such measures.**

## 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)

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.***

## Guinea

### **Protection of Wages Convention, 1949 (No. 95) (ratification: 1959)**

*Articles 6 and 8–10 of the Convention. Freedom of workers to dispose of their wages. Deductions from wages.* Further to its previous comments on the need to ensure the freedom of workers to dispose of their wages, and to prescribe the conditions and extent to which deductions from wages may be imposed, the Committee notes with *satisfaction* that the Labour Code adopted in 2014 provides that no employer shall limit, in any manner whatsoever, the freedom of workers to dispose of their wages (section 242.1) and that it prescribes restrictive and limited conditions for the deduction, assignment and attachment of wages (sections 243.1 to 243.3).

## Guinea-Bissau

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1977)**

*Article 3 of the Convention. Operation of the minimum wage-fixing machinery.* In its previous comments, the Committee recalled that the most recent decree fixing the minimum wage pursuant to sections 110 and 114 of the Labour Code was adopted in 1988 and that it was outdated. Noting that the Government indicated in its 2011 report that a study on the setting of a national minimum wage was being finalized, it requested the Government to provide information on any progress achieved in that regard. The Committee notes with *regret* that a new decree fixing the minimum wage has still not been adopted. It notes that the Government refers in its report to an agreement signed with the trade unions to conduct a study on fixing the national minimum wage. ***The Committee requests the Government to take without delay the necessary measures to fix the minimum wage pursuant to articles 110 and 114 of the Labour Code and to provide information in this regard, including on any studies carried out in this area and on consultation with the social partners.***

*[The Government is asked to reply in full to the present comments in 2020.]*

## Rwanda

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1962)**

The Committee notes the observations of the Congress of Labour and Brotherhood of Rwanda (COTRAF–RWANDA) on the application of the Convention, received in 2018.

*Articles 1 and 3(2) of the Convention. Minimum wage-fixing machinery. Consultation of employers' and workers' organizations.* Further to its previous comments requesting the Government to take all necessary steps in order to accelerate the process of determining – in consultation with employers' and workers' organizations – minimum wage rates, the Committee notes that, despite the Government's previous indications that a draft law determining minimum wage rates was pending adoption, the Government once again refers in its report to a 2015 study on the matter and to ongoing consultations. The Government also refers to legislative revisions under way. The Committee notes that COTRAF–RWANDA emphasizes that there is still no appropriate minimum wage-adjusting mechanism in place to respond to the rising cost of living and inflation in the country. In this respect, the Committee notes the adoption of Act No. 66/18 of 30 August 2018 issuing the labour regulations of Rwanda (Labour Code), section 68 of which provides for the determination of the minimum wage through a decree issued by the competent minister. The Committee also notes that the National Labour Council is responsible for proposing, or issuing an opinion on, the determination and adjustment of minimum wage rates, under section 3 of Decree No. 125/03 of 25 October 2010. The Committee notes with *regret*, however, that according to information available, the new minimum wage rates have still not been determined and recalls that the last adjustment to

these rates was in 1980. *The Committee expresses the firm hope that the ministerial decree determining the minimum wage under section 68 of the new Labour Code will be adopted promptly, and requests the Government to take all necessary measures in this regard. In addition, it requests the Government to provide detailed information on the consultations held in this regard, including on the role played by the National Labour Council. The Committee reminds the Government of the possibility to avail itself of ILO technical assistance.*

*Article 4. Sanctions.* The Committee notes that the Labour Code does not provide for sanctions in the case of non-respect of the provisions of national legislation concerning the minimum wage. *The Committee requests the Government to ensure that the determination of the minimum wage rates will be coupled with the implementation of a system of sanctions in order to ensure that the wages actually paid are not lower than the minimum rates determined; and to provide information in this regard.*

*[The Government is asked to reply in full to the present comments in 2020.]*

## Uganda

### **Minimum Wage-Fixing Machinery Convention, 1928 (No. 26)** (ratification: 1963)

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. 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.*

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

## Ukraine

### **Protection of Wages Convention, 1949 (No. 95) (ratification: 1961)**

### **Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 2006)**

### **Protection of Workers' Claims (Employer's Insolvency) 1992 (No. 173)** (ratification: 2006)

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 Convention No. 131 (minimum wage) and Conventions Nos 95 and 173 (protection of wages) together. The Committee takes note of the observations of the Confederation of Free Trade Unions of Ukraine (KVPU) on the application of Conventions Nos 95 and 131 received on 29 August 2019. It also notes the observation of the International Trade Union Confederation (ITUC) regarding the application of Convention No. 131 received on 1 September 2019.

#### *Legislative developments*

In its last comments, the Committee noted that the draft Labour Code would replace both the Labour Code of 1971 and the Wages Act of 1995, which were the main pieces of legislation giving effect to the ratified Conventions on wages. It requested the Government to provide information on the progress made towards the adoption of the new legislation. **Noting that the draft Labour Code has not yet been adopted, the Committee requests the Government to provide information on the finalization of the labour law reform.**

#### *Minimum wage*

*Article 3 of Convention No. 131. Criteria for determining the level of the minimum wage.* The Committee notes that in their observations, the ITUC and the KVPU indicate that the minimum wage does not adequately take into account the needs of workers and their families and the cost of living. According to the ITUC, the minimum wage established for 2019 is 12 per cent lower than the subsistence minimum calculated by the Ministry of Social Policy, a benchmark which is not even adequate given that it does not factor in a number of household expenses. The KVPU also states that the Government has not considered the trade unions' suggestion to introduce a system of indexation to ensure that the minimum wage would not lose its value due to the rising inflation during the year. In addition, the KVPU notes that in setting the

minimum wage the Government does not consider the overall level of wages in the country, leading to a significant gap between the minimum wage and the average wage. ***The Committee requests the Government to provide its comments in this respect.***

*Article 4(2). Full consultation with employers' and workers' organizations.* The Committee notes that the KVPU indicates that the negotiations on the determination of the minimum wage were not conducted in accordance with the procedure established by the applicable General Agreement. The KVPU also states that neither the Government nor the Parliament formally heard the position of the trade unions and that consequently the minimum wage results from a unilateral decision of the Government. ***The Committee requests the Government to provide its comments in this respect.***

*Article 5. Enforcement.* The Committee notes the KVPU's indication that proper inspections are not carried out due to the moratorium on inspections, and due to the lack of an appropriate number of inspectors. ***The Committee requests the Government to provide its comments in this respect. It also refers to its comments on the application of the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129).***

### ***Protection of wages***

*Article 12 of Convention No. 95. Wage arrears situation in the country.* In its last comments, the Committee examined the situation of wage arrears in the country, a situation which was particularly prevalent in state-owned coal-mining enterprises. Further to these comments, the Committee notes the information provided by the Government in its report, including regarding the measures taken between 2017 and May 2019 for the payment of wages and wage arrears in state-owned coal-mining enterprises. On the other hand, the Committee notes with ***concern*** that, according to the information provided by the Government, the amount of wage arrears in the coal-mining industry has been increasing in the first months of 2019. It also notes that the latest observations from the KVPU refer to the continued wage arrears situation. The KVPU also reiterates that, as a result of lasting and systematic wage arrears, social tensions remain in the mining communities. The Committee wishes to emphasize once again that a situation in which part of the workforce is systematically denied the fruits of its labour cannot be prolonged and that priority action is therefore needed to put an end to such practices. The Committee recalls once again that the application of *Article 12* in practice comprises three essential elements: (1) efficient control and supervision; (2) appropriate sanctions; and (3) the means to redress the injury caused, including fair compensation for the losses incurred by the delayed payment (see 2003 General Survey on the protection of wages, paragraph 368).

With regard to efficient control and supervision, the Committee notes that the Government indicates that since the beginning of 2019, labour inspectors have carried out inspection visits to determine compliance with labour legislation in eight enterprises in the coal industry. In six of these enterprises, 24 violations of legislation on labour, employment and compulsory state social insurance were discovered, some of which related to the payment of wages. On the other hand, the Committee notes that the KVPU reiterates its previous concerns indicating that the state bodies that control and supervise the application of the relevant legislation do not substantively address the issue of wage arrears. ***The Committee requests the Government to take the necessary measures to ensure efficient control and supervision of the regular payment of wages in the country. It requests the Government to provide information in this regard and refers to its comments on the application of labour inspection Conventions Nos 81 and 129.***

With regard to the imposition of appropriate sanctions, the Committee notes the information provided by the Government, including the indication that in order to systematically resolve the problem of arrears in the payment of wages, the Ministry of Social Policy prepared draft amendments to the existing legislation with the aim of strengthening the protection of workers' rights to the timely payment of wages, including by increasing the amount of compensation to be paid in case of delayed payment of wages. The Committee notes that the KVPU indicates that at times employers pay a portion of the wage arrears to avoid administrative and criminal liability. ***The Committee requests the Government to provide information on any progress made in the adoption of measures to ensure that sanctions in case of non-payment or irregular payment of wages are appropriate.***

With regard to the means to redress the injury, the Committee notes the information provided by the Government, including the indication that according to the Court Fee Act, complaints submitted by physical persons for the recovery of wages are exempted from the payment of court fees. On the other hand, the Committee notes that the KVPU reiterates that workers have difficulties exercising legal remedies due to their poor legal awareness and to the cost of legal representation. The KVPU also states that most of the court decisions on the recovering of wage arrears have not been implemented. ***The Committee requests the Government to provide its comments in this respect. Moreover, noting that the Government indicates that the above-mentioned draft amendments prepared by the Ministry of Social Policy included the establishment of a mechanism to guarantee the payment of wages in arrears in cases of the employer's insolvency, the Committee requests the Government to provide information on the progress made in this regard.***

*The practice of "envelope wages".* In its last comments, the Committee requested the Government to provide information on the measures taken to eliminate the practice according to which workers are forced to agree to the undeclared payment of wages "in envelopes", resulting in the non-payment of the corresponding social contributions. The Committee notes that the Government indicates that the Ministry of Social Policy developed draft amendments to the existing legislation with the aim of counteracting the use of undeclared labour, taking into account successful international practices. ***The Committee requests the Government to provide information on the progress made in this regard.***

*Articles 5 to 8 of Convention No. 173. Workers' claims protected by a privilege.* Further to its previous comments, the Committee notes that section 64 of the 2018 Code of Bankruptcy Procedure provides that workers' claims arising out of the employment relationship shall be protected by a privilege and shall be satisfied on a first priority basis. **Noting that section 2(4) of the Code of Bankruptcy Procedure excludes state-owned enterprises from its application, the Committee requests the Government to clarify how workers' claims are protected in the case of state-owned enterprises.**

#### **ILO technical assistance**

The Committee notes that the country is receiving technical assistance from the Office on the issues raised in the present comments. **The Committee hopes that the Government will be in a position to report concrete progress towards full and effective implementation of the ratified Conventions on wages in its next report.**

*[The Government is asked to reply in full to the present comments in 2021.]*

## **Bolivarian Republic of Venezuela**

**Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1944)**

**Protection of Wages Convention, 1949 (No. 95) (ratification: 1982)**

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 Convention Nos 26 (minimum wage) and 95 (protection of wages) together. The Committee takes note of the joint observations of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE) on the application of Convention No. 26, received on 1 September 2018 and 5 November 2019. The Committee also takes note of the observations of the Independent Trade Union Alliance Confederation of Workers (CTASI) relating to the application of Convention No. 95, received in 2018. Finally, the Committee takes note of the observations of the Confederation of Workers of Venezuela (CTV) on the application of Conventions Nos 26 and 95, received on 6 September 2019.

The Commission recalls that it examined in detail the application of Conventions Nos 26 and 95 at its 2017 session. The Committee takes note that, in the context of the complaint submitted under article 26 of the ILO Constitution by 33 employers' delegates at the 2015 session of International Labour Conference against the Bolivarian Republic of Venezuela for non-observance of Conventions Nos 26, 87 and 144, the Governing Body appointed a Commission of Inquiry to examine the complaint in March 2018. The Committee also takes note that in application of article 29 of the ILO Constitution: (i) the Director-General of the International Labour Office communicated the report of the Commission of Inquiry to the Government in September 2019; and (ii) the Government shall, within three months, inform whether or not it accepts the recommendations contained in the report of the Commission, and, if not, whether it proposes to refer the complaint to the International Court of Justice. Finally, the Committee takes note that the Commission of Inquiry requested the Government to submit reports on the application of the Conventions covered by the complaint, including on Convention No. 26, to the Committee of Experts for examination at its 2020 session. **In this context, and in view of the linkages between the issues addressed by the ratified Conventions on wages, the Committee intends to examine in detail the application of Conventions Nos 26 and 95 at its next session. The Committee hopes that it will be in a position to do so on the basis of detailed reports to be submitted by the Government on these Conventions, together with its comments with regard to the observations submitted by the above-mentioned employers' and workers' organizations.**

*[The Government is asked to reply in full to the present comments in 2020.]*

## **Zambia**

**Minimum Wage Fixing Convention, 1970 (No. 131) (ratification: 1972)**

*Article 4(2) of the Convention. Consultation with employers' and workers' organizations in the operation of the minimum wage fixing machinery.* For many years, the Committee has been referring to the need to revise section 3(1) of the Minimum Wages and Conditions of Employment Act (MWA) which only provided for consultations with trade unions in the process of determining the minimum wage. The Committee notes with **satisfaction** that with the adoption of the Employment Code Act 2019, which repealed the MWA, minimum wage rates may be fixed by statutory order after consultation with the tripartite Labour Advisory Committee (section 106 of the new Act). The Labour Advisory Committee has the mandate to inquire into wages and conditions of employment in order to make recommendations and to review minimum wage rates at least every two years (section 101 of the new Act).

The Committee is raising other matters on the application of ratified wages Conventions 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. 26** (Belgium, Benin, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Dominica, Fiji, Gabon, Guinea, Madagascar, Mali, Mauritania, Mauritius, Myanmar, Paraguay, Peru, Senegal, Sierra Leone, South Africa, Sudan, United Kingdom: Anguilla, United Kingdom: Montserrat); **Convention No. 95** (Afghanistan, Belgium, Benin, Bulgaria, Cameroon, Chad, Congo, Côte d'Ivoire, Cyprus, Democratic Republic of the Congo, Dominica, Egypt, Gabon, Greece, Hungary, Iraq, Israel, Italy, Kazakhstan, Lebanon, Libya, Madagascar, Mali, Mauritania, Mexico, Republic of Moldova, Niger, Panama, Paraguay, Philippines, Poland, Saint Vincent and the Grenadines, Sierra Leone, Solomon Islands, Sri Lanka, Sudan, Suriname, Tajikistan, United Republic of Tanzania, Togo, Uganda, United Kingdom: Montserrat, Yemen, Zambia); **Convention No. 99** (Belgium, Cook Islands, Côte d'Ivoire, Gabon, Guinea, Mauritius, Paraguay, Peru, Poland, Senegal, United Kingdom: Anguilla); **Convention No. 131** (Burkina Faso, Cameroon, Ecuador, Egypt, France: New Caledonia, Iraq, Japan, Republic of Korea, Lebanon, Libya, Malaysia, Mexico, Republic of Moldova, Morocco, Nepal, Netherlands, Niger, Serbia, Sri Lanka, Uruguay, Yemen, Zambia); **Convention No. 173** (Portugal, Zambia).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 26** (Angola, Belize, Bulgaria, Chad, Hungary, Ireland, Italy, Malawi, New Zealand, Norway, Panama, Papua New Guinea, Saint Vincent and the Grenadines, Slovakia, Solomon Islands, Switzerland, Togo, Tunisia, United Kingdom: British Virgin Islands); **Convention No. 95** (Belize, Burkina Faso, Ecuador, France, France: French Polynesia, France: New Caledonia, Guatemala, Malta, Mauritius, Netherlands: Aruba, Netherlands: Curaçao, Netherlands: Sint Maarten, Nicaragua, Norway, Portugal, Senegal, Slovakia, Slovenia, Syrian Arab Republic, Tunisia, Uruguay); **Convention No. 99** (Australia, Belize, Hungary, Ireland, Italy, Malawi, New Zealand, Papua New Guinea, Philippines, Slovakia, Tunisia, United Kingdom: Isle of Man, United Kingdom: Jersey); **Convention No. 131** (Australia, Costa Rica, France, France: French Polynesia, Guyana, Latvia, Lithuania, Malta, Montenegro, Nicaragua, Portugal, Slovenia, Syrian Arab Republic); **Convention No. 173** (Australia, Bulgaria, Burkina Faso, Chad, Latvia, Lithuania, Madagascar, Mexico, Slovakia, Slovenia, Switzerland).

## Working time

### Direct requests

Requests regarding certain matters are being addressed directly to the following States: **Convention No. 1** (Angola, Burundi, Equatorial Guinea, Bolivarian Republic of Venezuela); **Convention No. 14** (Angola, Burundi, Cook Islands, Tajikistan, United Kingdom: Anguilla, United Kingdom: Falkland Islands (Malvinas), Uruguay, Yemen); **Convention No. 30** (Equatorial Guinea); **Convention No. 47** (Tajikistan); **Convention No. 52** (Burundi, Comoros, Tajikistan); **Convention No. 89** (Angola, Burundi, Comoros, Guinea, Rwanda, Tunisia); **Convention No. 101** (Burundi, Sierra Leone); **Convention No. 106** (Angola, France, Tajikistan, Uruguay); **Convention No. 132** (Yemen); **Convention No. 171** (Lao People's Democratic Republic, Montenegro, Slovenia); **Convention No. 175** (Belgium).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 1** (Belgium, Uruguay); **Convention No. 14** (Belgium, Thailand, Togo, United Kingdom: British Virgin Islands, United Kingdom: Montserrat, United Kingdom: St Helena); **Convention No. 101** (United Kingdom: Anguilla); **Convention No. 132** (Belgium, Croatia, Uruguay).



## Occupational safety and health

### Belize

#### **Radiation Protection Convention, 1960 (No. 115) (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 2020, 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.

*General observation of 2015.* The Committee would like to draw the Government's attention to its general observation of 2015 under this Convention, including the request for information contained in paragraph 30 thereof.

The Committee notes the information in the Government's current report that the National Occupational Safety and Health (NOSH) Bill does take into consideration all the Committee's observations as it ensures the effective protection of workers exposed to ionizing radiation in the course of their work. The Committee also notes from the Government's report that provisions have been made in the NOSH Bill for maximum permissible doses of ionizing radiation, alternative employment (especially for pregnant women) and the prevention of occupational exposure during an emergency. Furthermore, according to available information, the NOSH Bill has not yet been adopted due to concerns that it may be burdensome to employers. The Committee notes that, in spite of its previous request, the Government has not provided a detailed report as requested by the Committee. The Committee wishes to emphasize that the indication that the new legislation is in the process of adoption does not free the Government from the obligation to ensure the application of the provisions of the Convention during the transition period and to provide such information in its report. *The Committee requests the Government to supply detailed information on the application of the Convention, including new legislation, if adopted, and where it has not been adopted, the manner in which the Government ensures the application of the provisions of the Convention in practice. It also reiterates its request to the Government to respond in detail to its previous observation which reads as follows:*

*Articles 3(1) and 6(2) of the Convention. Maximum permissible doses of ionizing radiation.* With reference to its previous comments, the Committee notes the Government's response indicating that on 13 March 2009, the Labour Advisory Board was re-activated and that its main duty is the revision of national labour legislation. The Committee notes that the Ministry is currently in the process of identifying a consultant that will work with the Labour Advisory Board to conduct the revision of the legislation, and that comments made by the Committee will be submitted to the Board. *The Committee hopes that in the course of the ongoing revision of national labour legislation due account will be taken on the exposure limits adopted by the International Commission on Radiological Protection, in order to ensure the effective protection of workers exposed to ionizing radiation in the course of their work.*

*Article 14. Provision of alternative employment.* The Committee notes the Government's response indicating that there is no provision in the Labour Act for the transfer of pregnant women from their work involving exposure to ionizing radiation to another job. The Committee notes, however, the Government's statement that the National Occupational Safety and Health Policy, adopted by Cabinet on 9 November 2004, can provide a suitable framework for drafting legislation that could make provision for such transfer and that legislation is drafted in consultation with the Labour Advisory Board. *The Committee hopes that in the course of the ongoing revision of the national labour legislation due account will be taken of the need to ensure that suitable alternative employment opportunities, not involving exposure to ionizing radiations, be provided for workers having accumulated an effective dose beyond which detriment to their health considered unacceptable is to arise, as well as for pregnant women, who may be faced with the dilemma that protecting their health means losing their employment.*

*Occupational exposure during an emergency.* The Committee notes that there is currently no provision within the Labour Act laying out the circumstances in which exceptional exposure is authorized. *The Committee requests the Government, in the course of the ongoing revision of the national labour legislation, to take due account of the need to determine circumstances in which exceptional exposure is authorized, and to make protection as effective as possible against accidents and during emergency operations, in particular with regard to the design and protective features of the workplace and the equipment, and the development of emergency intervention techniques, the use of which in emergency situations would enable the exposure of individuals to ionizing radiations to be avoided.*

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

### Plurinational State of Bolivia

#### **Benzene Convention, 1971 (No. 136) (ratification: 1977)**

#### **Asbestos Convention, 1986 (No. 162) (ratification: 1990)**

In order to provide a comprehensive view 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 136 (benzene) and 162 (asbestos) together.

#### **A. Protection against specific risks**

##### **Benzene Convention, 1971 (No. 136)**

*Article 4 of the Convention. Prohibition of the use of benzene as a solvent or diluent.* With reference to its previous comments, the Committee notes that the Government reiterates in its report that the use of benzene is not prohibited. *The Committee once again requests the Government to take the necessary measures, in accordance with Article 4 of the Convention, to prohibit the use of benzene and of products containing benzene as a solvent or a diluent, except where the process is carried out in an enclosed system or where there are other equally safe methods of work.*

### Asbestos Convention, 1986 (No. 162)

*Articles 3 and 4 of the Convention. Legislation and consultation.* With reference to its previous comments, the Committee notes that the Government repeats in its report the information on the general OSH standards to which it referred previously, adding a reference to the Technical Safety Standard for the Presentation and Approval of Occupational Safety and Health Programmes (NTS-009/18), which does not contain any specific provisions on asbestos. The Committee notes with **deep concern** that the necessary measures have not been taken to bring the legislation into conformity with the requirements of *Article 3*. The Committee recalls the Resolution concerning asbestos, adopted by the 95th Session of the International Labour Conference, June 2006, which stated that the elimination of the future use of asbestos and the identification and proper management of asbestos currently in place are the most effective means to protect workers from asbestos exposure and to prevent future asbestos-related diseases and deaths. ***The Committee once again strongly urges the Government in accordance with Article 3 of the Convention, to take the necessary measures as soon as possible to: (a) prevent and control health hazards due to occupational exposure to asbestos; and (b) protect workers against such risks. It also requests the Government to take the necessary measures to consult the most representative organizations of employers and workers concerned with regard to the measures to be taken to give effect to the provisions of the Convention.***

*Articles 9, 10, 11 and 12. Preventive measures by law or regulation. Prohibition of the use of crocidolite and spraying.* The Committee **regrets** to note that the necessary measures have not been adopted to bring the legislation into conformity with the requirements of *Articles 9, 10, 11 and 12*. ***The Committee once again requests the Government to provide information on the measures adopted or envisaged to ensure the application of Articles 9 and 10 (preventive measures by law or regulation), 11 (prohibition of crocidolite) and 12 (prohibition of spraying).***

*Article 15. Exposure limits.* The Committee notes the Government's indication that the maximum permissible concentration of asbestos in the air in occupied areas is 5 million particles per cubic foot, in accordance with section 20 of Presidential Decree No. 2348 of 18 January 1951, which approved the Basic Regulations on industrial health and safety. The Government also refers to Annex D of Technical Standard on Minimum Conditions for the Performance of Work in Confined Spaces (NTS-008/17) which provides in general terms that the permissible exposure limits shall be those determined by the Occupational Safety and Health Administration of the Department of Labor of the United States (OSHA) which establishes limits for air contaminants. The Government indicates that Standards 29 CFR of the OSHA contain asbestos concentration limits (0.1 fibre per cubic centimetre of air as an eight-hour time-weighted average and 1.0 fibre per cubic centimetre of air as averaged over a sampling period of 30 minutes, in accordance with Standards 29 CFR, 1910.1001). In this regard, the Committee observes that section 8 of NTS-008/17 determines that employers shall include in protocols for work in confined spaces the necessary safety mechanisms for entry into the premises, including preventive measures to be adopted during work, such as continuous monitoring of air in the workplace.

With reference to its previous comments on respiratory protective equipment and special protective clothing, the Government indicates that the Technical Standard on Demolition Work (NTS-006/17) provides that, when there is evidence of the existence of materials containing asbestos fibres, the requirements set out in the adequate procedures established by the national or foreign minimum safety and health standards applicable to work involving the risk of exposure to asbestos, shall be met. The Committee notes that NTS-009/18 provides that the enterprise or labour establishment shall attach to the occupational safety and health programme documents on the provision of work clothing and personal protective equipment. The Committee notes that the Government also indicates that the Regulations of Act No. 545 on safety in construction (DS No. 2936) establish the general requirement for the contractor to provide workers with appropriate individual protective equipment in relation to the hazards of the workplace in the sector. The Committee also notes the Government's indication that, in accordance with section 6(d) of DS No. 2936, the contractor shall provide without any cost to the workers, clothing, work apparel and personal protective equipment that is appropriate in relation to the risks analysed for the workplace, and that they shall be verified, inspected and reissued regularly in light of the deterioration and/or damage caused by their use. Finally, the Committee notes that the Government has not provided information on the application of *Article 15(2) and (3)* of the Convention. ***The Committee requests the Government to provide information on the measures adopted or envisaged to: (a) prevent or control the release of asbestos dust into the air; (b) ensure that the exposure limits or other exposure criteria are complied with; and (c) reduce exposure to as low a level as is reasonably practicable. The Committee once again requests the Government to provide specific information on the measures taken in relation to respiratory protective equipment and special protective clothing, as provided for in Article 15(4) of the Convention.***

*Article 16. Practical measures for prevention and control.* The Committee notes that NTS-009/18 provides that the enterprise or establishment shall undertake, through methodology, the identification of hazards and the assessment of risks in the activities undertaken, as well as other relevant measures. Under the terms of the Technical Safety Standard in force adopted by the Ministry of Labour, Employment and Social Welfare, or in the absence of such a Standard or another reference standard applicable to national conditions, the enterprise or labour establishment shall present a specific study on contaminating chemicals in the working environment (hazardous substances). ***The Committee requests the Government to provide additional information on the specific measures adopted to ensure that employers are made responsible for the establishment and implementation of practical measures for the prevention and control of the exposure of the workers that they employ to asbestos and for their protection against the hazards due to asbestos.***

*Article 21(3) and (4). Information on medical examinations. Other means of maintaining income when assignment to work involving exposure to asbestos is inadvisable.* With reference to its previous comments, the Committee notes that NTS-009/18 provides that the enterprise or establishment shall indicate in the occupational safety and health programme the following information: (a) pre-recruitment medical examinations; (b) periodic examinations of workers in line with the risks identified in the “Hazard Identification and Risk Evaluation”, including the development of any occupational diseases that are detected; and (c) post-employment examinations of workers who have concluded their work in the enterprise or establishment (post-employment management). The Committee also notes section 404 of the General Act on occupational safety and health and welfare (Legislative Decree No. 16998), which provides that care shall be taken in the selection of workers that each worker is assigned to the work for which she/he is best suited from the viewpoint of her/his aptitude and physical strength. However, the Committee observes that specific measures have not been adopted to bring the legislation into conformity with the requirements set out in *Article 21. The Committee once again requests the Government to provide specific information on the measures adopted or envisaged to ensure that: (a) workers are informed in an adequate and appropriate manner of the results of their medical examinations and receive individual advice concerning their health in relation to their work; and (b) when continued assignment to work involving exposure to asbestos is found to be medically inadvisable, every effort is made, consistent with national conditions and practice, to provide the workers concerned with other means of maintaining their income, in accordance with Article 21(3) and (4) of the Convention.*

The Committee is raising other matters on the application of ratified OSH Conventions in a request addressed directly to the Government.

*[The Government is asked to reply in full to the present comments in 2021.]*

## China

### **Occupational Safety and Health Convention, 1981 (No. 155)** (ratification: 2007)

### **Safety and Health in Construction Convention, 1988 (No. 167)** (ratification: 2002)

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.

#### **General provisions**

##### *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.* The Committee previously noted the 26,393 cases of occupational diseases reported in 2013, including 23,152 cases of pneumoconiosis. In response to its request on concrete measures taken to address pneumoconiosis, the Committee notes the information in the Government’s report concerning different preventative OSH measures taken in recent years, including the formulation of risk prevention and control plans in coal mines. The Committee also notes with *interest* the adoption, in 2019, of a National Action Plan on the Prevention and Control of Pneumoconiosis. The Committee further notes the information provided by the Government that in 2018, there were 51,373 occupational safety accidents resulting in the death of 34,046 workers. It notes the Government’s indication that the 2018 figures represent a 23.4 per cent decrease since 2015 in the number of accidents, and a 23.9 per cent decrease in the number of fatalities. *The Committee requests the Government to continue to provide statistics on occupational accidents and diseases at the national level. The Committee further requests the Government to continue its efforts with regard to the prevention of occupational accidents and occupational diseases, and to continue to provide information on the specific preventative measures taken in this regard, including measures taken in the implementation of the National Action Plan on the Prevention and Control of Pneumoconiosis*

#### **Protection in specific branches of activity**

##### *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.* The Committee previously noted section 24 of the Administrative Regulations on Work Safety in Construction Projects which states that the main contractor shall be responsible for the overall occupational safety at the construction site. When the main contractor subcontracts a construction project to any other entity, it shall explicitly stipulate their respective rights and obligations regarding work safety. The main contractor and the subcontractor shall bear joint and several liability with regard to the safety of the subcontracted project and shall share duties and responsibilities. The Committee also noted that the Government identified the inadequacy of accountability and responsibility as a contributing factor to the high accident rate in the construction sector, and it requested information on the enforcement of section 24 in practice.

The Committee notes the statistics provided by the Government, in response to the Committee's previous request, regarding enforcement in the construction industry in general. The Government refers to the adoption of the Opinion on Further Accelerating the Development of General Project Contracting (No. 93, 2016), which provides that project contracting enterprises may directly subcontract design or construction work to enterprises with the corresponding qualifications, but the general contractor enterprise shall be fully responsible for, among others, the quality and safety of the project in accordance with the contract signed with the construction entity. The Government also indicates that the Ministry of Housing and Urban-Rural Development issued a Notice on Management Measures for the Evaluation and Punishment of Contract Awarding and Contracting of Construction Projects (No 1. 2019) which identified violations relating to illegal contract awarding, subcontracting and illegal subcontracting, as well as established standards for investigation and punishment. The Government further indicates that the Measures for the Administration of Subcontracting for the Construction of Houses and Municipal Infrastructure Projects (Decree No. 47 of the Ministry of Housing and Urban-Rural Development) was revised in 2019, and provides that the contractor of a project through subcontracting shall have the necessary qualifications for the work required, and shall obey the occupational safety management measures of the main contractor on the construction site. ***The Committee requests the Government to continue to provide information on the measures it is taking 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 the general information provided, the Committee once again requests detailed information on the application and 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, including fines collected and prosecutions. The Committee requests that this detailed information identify how often the principal contractor, as distinct from the subcontractor, is the object of enforcement actions.***

***Article 18(1). Work at heights including roof work.*** The Committee notes the Government's statement, in reply to the Committee's previous request, that falls from heights are the main type of accident in construction, representing 52.2 per cent of total accidents in 2018. The Government indicates that supervision of personal protective equipment (such as safety belts) shall be strengthened in order to prevent such falls, and that in 2019, the Ministry of Housing and Urban-Rural Development, together with the State Administration for Market Regulation and the Ministry of Emergency Management, issued the Notice on Further Strengthening Supervision and Management over Personal Protective Equipment. The Government also reports that it is taking measures to strengthen monitoring of projects considered to be higher risk, including those involving work at high heights particularly through the development of detailed enforcement rules regarding such projects and the undertaking of targeted inspections. ***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 requests the Government to continue to provide information on the enforcement measures implemented in that respect and to provide data on the number of occupational accidents reported (including fatal and serious accidents) due to falls from heights, as well as the number and nature of violations detected and penalties applied for non-compliance.***

***Article 35. Effective enforcement of the provisions of the Convention and application in practice.*** The Committee previously noted the Government's identification of the contributing factors to accidents in the construction sector, including the non-standardization of the construction market; the inadequacy of enterprise ownership, accountability and responsibility; the lack of thoroughness in the elimination of hidden workplace hazards; and the inadequacy of investigations and penalties following occupational accidents. It noted that in 2018, the construction industry was, for the ninth consecutive year, the sector with the largest number of occupational accidents.

The Committee notes the information provided by the Government, in response to its previous request, on the measures taken by the Ministry of Housing and Urban-Rural Development to improve the implementation of the Convention, including: (i) measures to strengthen safety inspections in the construction sector, including the elimination of more than 360,000 potential safety hazards on construction sites and the suspension of licences for 164 enterprises in 2018; (ii) improved regulation of the construction market to address illegal subcontracting; (iii) further awareness raising on safety in construction and safety training for construction workers; and (iv) the development of a national information system on construction safety to promote supervision, collaboration and information sharing. The Government indicates that departments in charge of housing and urban-rural construction at all levels inspected 320,155 projects, investigated 11,302 illegal activities, penalized 8,161 enterprises and imposed fines of approximately ¥102 million. In 2018, there was 734 occupational safety accidents in housing and municipal projects nationwide, resulting in the death of 840 workers. In this respect, the Committee notes with ***concern*** the Government's statement that this represents a 4.1 per cent increase in the number of fatalities due to accidents in the sector between 2017 and 2018. The major cause of accidents were falls from heights, falling objects, mechanical accidents and crane-related accidents. It further notes that in 2018, 983 cases of occupational diseases were reported in the construction sector, mostly related to civil engineering projects (827 cases). With reference to its comments above on Convention No. 155, the Committee notes that the main occupational disease reported in the construction industry was pneumoconiosis. ***The Committee urges the Government to pursue 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 fatal accidents in the 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***

*information on the application of the Convention in practice, including the number and nature of the contraventions reported and the measures taken to address them, and the number, nature and cause of occupational accidents and occupational diseases reported.*

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

## Guyana

### **Occupational Cancer Convention, 1974 (No. 139) (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 2020, 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 that draft Regulations on the safe use of chemicals at work of 31 January 2003 are currently being discussed. It notes the Government's statement that these draft Regulations provide protection against occupational cancer and also that it refers to the international exposure limits standard established by the American Conference of Governmental Industrial Hygienists. The Committee further notes that Chapter 3.6 of Annex 2 of the draft Regulations contains rules applicable to carcinogenicity and also notes the Government's statement that these draft Regulations will attempt to provide for medical examinations. The Committee hopes that these Regulations will be adopted in the near future, ensuring the application of the Convention, and that they will also ensure that medical examinations or biological or other tests or investigations are carried out during the period of employment and thereafter, in accordance with *Article 5* of the Convention. **The Committee requests the Government to provide information on measures taken to ensure the application of the Convention and to provide a copy of the Regulations, once they are adopted.**

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

## Lebanon

### **Radiation Protection Convention, 1960 (No. 115) (ratification: 1977)**

*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.

## San Marino

### **Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148) (ratification: 1988)**

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 2020, 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 4. Prevention and control of, and protection against, occupational hazards; Article 8. Establishing criteria for determining hazards due to exposure to air pollution, noise and vibration and exposure limits; Article 9. Technical measures to ensure that the working environment is free from any hazard due to air pollution, noise and vibration; and Article 10 of the Convention. Personal protective equipment.* The Committee notes that according to the Government's report the definition of the relevant benchmark technical standards with regard to air pollution more generally and vibration, is still pending and that the criteria determining when personal protective equipment is to be provided is directly related to these benchmark technical standards. **The Committee reiterates its hopes that the technical standards that are reportedly in preparation will be adopted in the near future and asks the Government to provide information on the progress made and copies of them once they have been adopted.**

*Article 5. Consultations between the competent authority and the most representative organizations of employers and workers.* The Committee welcomes the information provided concerning the extensive consultations held between the Department of Public Health and the most representative organizations of employers and workers on measures to be taken to improve occupational safety and health conditions in small enterprises resulting in the adoption of Decree No. 4 of 14 January 2008 revising Annex I of Decree No. 123/2001. **The Committee requests the Government to provide information on the practical application of this decree.**

*Article 11(3). Alternative employment or other measures to maintain the income of transferred workers.* The Committee notes with interest the detailed guidelines on the application of the medical supervision based on Law No. 31/98 and subsequent legislation issued on 20 December 2002 following a thorough process of consultation. This guideline expressly refers to the Occupational Health Services Convention, 1985 (No. 161), and sets out detailed instructions on the way medical examinations have to be done as well as on the legal and medical obligations resulting from this examination. It also notes that workers who show reduced capacity for work in relation to the work performed have the possibility to be employed in protected activities in the state integrating sites (*Cantieri Integrativi dello Stato*). It also notes that according to article 9 of Decree No. 15/2006, the workers included in the Decree could be employed by the public administration in the terms fixed in the agreement between the State and the union. **The Committee asks the Government to indicate if the alternative employment referred to is only for workers with disabilities or if it also covers the situation in which exposure to air pollution, noise or vibration is found to be medically inadvisable, even in cases where there is no disability. The Committee also asks the Government to provide information on cases where alternative employment or other measures to maintain the income of transferred workers have been provided in relation to this Article of the Convention.**

*Article 16. Penalties and inspection service. Application in practice.* The Committee notes the statistical information provided by the Government containing information on the inspections carried out and the following findings: 21 infringements in large enterprises; four in medium enterprises; and one in small enterprises. **The Committee requests the Government to provide information regarding the measures taken to address these trends and continue to provide detailed information on the application of the Convention in practice, including statistical information disaggregated by sex, if possible; on the number of workers covered by relevant legislation; and the number and nature of contraventions reported.**

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

## Sierra Leone

### **Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1964)**

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 2020, 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.

For a number of years, the Committee has drawn the attention of the Government to the fact that the national legislation does not contain provisions to give effect to Part II of the Convention (prohibition of the sale, hire, transfer in any other manner and exhibition of unguarded machinery) and that it does not provide for the full application of Article 17 of the Convention (which applies to all sectors of economic activity), as it is not applicable to certain branches of activity, inter alia, sea, air or land transport and mining.

Since 1979, in reply to the Committee's comments, the Government has indicated in its reports that a Bill to revise the 1974 Factories Act was being drafted and would contain provisions consistent with those of the Convention, and would apply to all the branches of economic activity. In its latest report (received in 1986), the Government indicates that the draft Factories Bill, 1985, has been examined by the competent parliamentary committee and is to be submitted to Parliament for adoption.

With its report for the period ending 30 June 1991, the Government supplied a copy of extracts of the Factories Bill containing provisions which should give effect to Part II of the Convention. In this connection, the Government was requested to indicate the stage of the legislative procedure reached by the Bill and the body which was in the process of examination of the Bill. **Since no information has been provided by the Government in this respect, the Committee once again expresses the hope that the abovementioned Bill will be adopted in the near future and requests the Government to provide a copy of this text, once it has been adopted.**

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

## Turkey

**Radiation Protection Convention, 1960 (No. 115) (ratification: 1968)**

**Guarding of Machinery Convention, 1963 (No. 119) (ratification: 1967)**

**Maximum Weight Convention, 1967 (No. 127) (ratification: 1975)**

**Occupational Safety and Health Convention, 1981 (No. 155)  
(ratification: 2005)**

**Occupational Health Services Convention, 1985 (No. 161) (ratification: 2005)**

**Safety and Health in Construction Convention, 1988 (No. 167)  
(ratification: 2015)**

**Safety and Health in Mines Convention, 1995 (No. 176) (ratification: 2015)**

**Promotional Framework for Occupational Safety and Health Convention,  
2006 (No. 187) (ratification: 2014)**

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 Conventions Nos 115 (radiation protection), 119 (guarding of machinery), 127 (maximum weight), 155 (OSH), 161 (occupational health services), 167 (OSH in construction), 176 (OSH in mining) and 187 (promotional framework for OSH) together.

It notes the observations of the Turkish Confederation of Employers' Associations (TISK), communicated with the Government's report on Conventions Nos 115, 119, 127, 155, 161 and 187.

*Articles 2, 3, 4(3)(a) and 5 of Convention No. 187, Articles 4, 7 and 8 of Convention No. 155, Article 1 of Convention No. 115, Article 16 of Convention No. 119, Article 8 of Convention No. 127, Articles 2 and 4 of Convention No. 161, Article 3 of Convention No. 167 and Article 3 of Convention No. 176.* Continuous improvement of occupational safety and health in consultation with the most representative organizations of employers and workers and the national tripartite advisory body. National OSH policy and programme. The Committee previously noted the Government's indication that the tripartite National Occupational Safety and Health Council (National OSH Council) met twice a year, and had the objective of advising the Ministry of Family, Labour and Social Security and the Government on developing policies and strategies to improve OSH conditions. It also noted the adoption of the National OSH Policy (III) and National Action Plan for the period 2014–18, which included objectives related to the development of an occupational accident and disease statistics and recording system and the improved performance of occupational health services.

The Committee notes with *concern* the Government's indication in its report that the last meeting of the National OSH Council was held in June 2018 and that the review of the National OSH Policy and Action Plan for 2014–18, and the adoption of a new OSH Policy and Action Plan for 2019–23, are still pending. The Committee recalls that the previous Regulations on the National OSH Council of 2013 specified that its composition included 13 representatives from the social partners (and 13 from public institutions), and it notes the Government's indication that, pursuant to Decree-Law No. 703 of 2018, the National OSH Council will be reorganized and its new members will be nominated by the President. The Government also provides information, in response to the Committee's request, on the progress achieved with respect to the annual performance indicators in each of the seven objectives set out in the National Action Plan 2014–18. The Committee further notes the Government's reference to tripartite meetings in the construction and mining sectors, and the observations made by the TISK on the application of Convention No. 155 stating that steps are being taken to improve social dialogue in the area of OSH. **The Committee requests the Government to provide information on the review undertaken of the National OSH policy and Action Plan for the period 2014–18, including the evaluation of the progress made with the performance indicators, as well as the formulation of a new OSH policy and programme for the subsequent period. It requests the Government to provide information on the consultations held with the most representative organizations of employers and workers in this respect. It further requests the Government to provide information on the re-establishment of the National OSH Council and to indicate if it includes representatives of employers' and workers' organizations.**

*Articles 2 and 3 of Convention No. 187 and Article 4 of Convention No. 155.* Prevention as the aim of the national policy on OSH. In its previous comments, the Committee noted the proposed measures in the National OSH Policy Document III (2014–18) to reduce occupational accidents in the metal, construction and mining sectors.

The Committee welcomes the detailed information provided by the Government, in response to its request, on the application in practice of Conventions Nos 167 and 176, including the number of occupational accidents and fatal occupational accidents. The Committee notes the Government's indication that, while desired levels in the performance indicators in the National Policy Document III (2014–18) have not been reached, efforts to reduce occupational accidents and occupational diseases continue. The Government states that there are plans to revise the relevant targets and indicators in the preparation of the 2019–2023 Action Plan to provide for more effective actions, after the restructuring of the National OSH Council. In this regard, the Committee also welcomes the information provided by the Government concerning several activities in the construction sector to reduce occupational accidents and the Government's reference to the imminent launch

of a major project to improve OSH in the mining sector. It also notes with *concern* the Government's indication that, in 2017, there were 587 fatal occupational accidents in the construction sector and 86 such accidents in the mining sector. *The Committee requests the Government to continue to take measures to reduce occupational accidents in the sectors and workplaces where workers are particularly at risk (particularly in the metal, mining and construction sector and where workers use machinery). It requests the Government to continue to provide detailed information on the number of occupational accidents, including fatal occupational accidents, in all sectors and workplaces. It also requests the Government to provide information regarding occupational diseases, including the number of cases of occupational disease recorded and, if possible, disaggregated by sector, age group and gender.*

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 2021.]*

## Uruguay

### **Occupational Safety and Health Convention, 1981 (No. 155)** (ratification: 1988)

### **Occupational Health Services Convention, 1985 (No. 161)** (ratification: 1988)

### **Asbestos Convention, 1986 (No. 162)** (ratification: 1995)

In order to provide a comprehensive view 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), 161 (occupational health services) and 162 (asbestos) together.

The Committee notes the observations of the Inter-Union Assembly of Workers – Workers' National Convention (PIT-CNT) on the implementation of Convention No. 161, communicated with the Government's report.

#### **Occupational Safety and Health Convention, 1981 (No. 155)**

*Articles 4, 7 and 8 of the Convention. Formulation of a national policy and adoption of legislation on occupational safety and health, in consultation with the representative organizations of employers and workers concerned.* Further to its previous comments, the Committee notes that, within the framework of Act No. 19172 on the regulation and control of cannabis, and Decree No. 120/2014, regulating that Act, Decree No. 128/016 of 2 May 2016 has been adopted, establishing the procedure for the action in relation to the consumption of alcohol, cannabis and other drugs in the workplace. The Committee welcomes the Government's indication in its report that draft Decree No. 128/016 was approved by the National Council on Occupational Safety and Health (CONASSAT) in 2015.

The Committee notes that section 3 of Decree No. 128/016 provides that in joint health and safety bodies (created within the framework of Decree No. 291/007, which implements the provisions of the Convention), and in sectorial industrial relations bodies, systematic guidelines and procedures to detect situations in which alcohol and other drugs are being consumed shall be adopted, and actions shall be developed for consumption prevention and early detection, with a view to facilitating early intervention. The Committee also notes the Government's indication in its report that in 2016 a sub-working group was established within CONASSAT to draw up a National OSH Policy, and continued its activities in 2017. The Committee also notes the information provided by the Government on the adoption of a series of OSH Decrees (Decrees Nos 119/017, 143/017 and 7/018) in consultation with the representative organizations of employers and workers concerned and on the preparation of a compendium of rules on OSH. *The Committee requests the Government to continue providing information on the formulation of the national policy on OSH in consultation with the most representative organizations of employers and workers concerned. The Committee also requests the Government to continue providing information on all periodical reviews of the safety and health of workers and the working environment conducted within the framework of the CONASSAT.*

#### **Occupational Health Services Convention, 1985 (No. 161)**

*Articles 3, 4 and 6 of the Convention. Progressive development of occupational health services in consultation with the most representative employers' and workers' organizations. Legislation.* The Committee previously noted that the second paragraph of section 16 of Decree No. 127/014, which regulates the application of the Convention in all activities, provides that, within five years of the entry into force of the Decree, all of the branches of activity shall have occupational health and prevention services.

The Committee notes the PIT-CNT's indication in its observations that the time limits established by Decree No. 127/014 have now passed, and compliance with the Decree has been very limited, as the great majority of companies have not established occupational health services. In this respect, the Committee notes that Decree No. 127/014 has been amended by Decree No. 126/019, of 6 May 2019, which was agreed in CONASSAT. The Committee notes, in particular, that section 1 of Decree No. 126/019 sets aside the time limit envisaged in section 16(2) of Decree No. 127/014 and, consequently, provides that: (i) occupational health and prevention services shall be established in companies and institutions with more than 300 workers, irrespective of their area of activity or nature; (ii) this requirement shall be gradually extended to include companies with between 50 and 300 workers, in accordance with the list of branches and activity sectors

that CONASSAT will submit to the executive; and (iii) all companies and institutions with more than five workers, irrespective of the nature of their activity, shall set up occupational health and prevention services within a maximum of 18 months from the entry into force of Decree No. 126/019. The Committee also notes that section 3 of the Decree specifies that all of the companies and institutions covered by the requirement to have occupational health and prevention services shall have 180 days from the entry into force of the Decree on the expiry of the corresponding deadline to complete the establishment of such services.

The Committee notes the Government's indication that, irrespective of the number of workers, occupational health services are currently compulsory in the chemicals, drug, pharmaceutical, fossil fuel and allied industries (pursuant to Decree No. 128/014, as amended by Decree No. 109/017 of 24 April 2017); in collective healthcare institutions, medical mutuals and cooperatives (under Decree No. 197/014, of 16 July 2014); in the dairy and non-alcoholic drinks, beer and malted barley industries, which form part of the group of activities relating to the processing and preservation of food, drinks and tobacco (pursuant to Decree No. 242/018, of 6 August 2018); in activities deemed to be dock work (under section 15 of Decree No. 394/018, of 26 November 2018) and, finally, in some activities in the refrigeration and metal products, machinery and equipment industries (pursuant to Decree No. 127/019 of 6 May 2019). ***The Committee requests the Government to continue providing information on the progress made in the establishment of occupational health services for all workers in all branches of economic activity and in all companies. In particular, the Committee requests the Government to provide information on the gradual extension to companies with between 50 and 300 workers of the requirement to have occupational health and prevention services, including the Decrees adopted to extend the requirement, as well as on the inclusion of companies with between five and 50 workers.***

#### **Asbestos Convention, 1986 (No. 162)**

***Articles 3(1) and 5 of the Convention. Measures for the prevention and control of, and protection of workers against health hazards due to occupational exposure to asbestos. Inspection system and sanctions.*** The Committee previously noted that Decree No. 154/002 prohibits the manufacture, import and marketing of asbestos and requested the Government to provide information on the inspections conducted to control the prohibition of asbestos. In this respect, the Committee notes the Government's indication that: (i) inspections and controls relating to asbestos are conducted by the Environmental Working Conditions Division (CAT) of the General Labour and Social Security Inspectorate of the Ministry of Labour and Social Security, the Hazard Management Unit of the State Insurance Bank and the Ministry of Public Health; (ii) training for the personnel of the general labour inspectorate enables them to identify specific cases of exposure to asbestos; (iii) if the CAT detects the presence of asbestos in inspected workplaces, it shall immediately order the corresponding preventive measures, the removal of the carcinogenic product and the monitoring of the workers' health, and may even order closures in the event of non-compliance; and, (iv) either the general labour inspectorate or the Ministry of Public Health shall impose sanctions for failure to comply with the prohibition of the manufacture and marketing of products containing asbestos, while the National Directorate of the Environment, of the Ministry of Housing, Land Management and the Environment shall impose sanctions for failure to comply with the prohibition of marketing waste containing asbestos.

***Article 17. Demolition of plants or structures containing asbestos and removal of asbestos. Preparation of a work plan in consultation with the workers or their representatives. Noting that no information has been provided in this respect, the Committee once again requests the Government to adopt the necessary measures to ensure that: (i) the demolition of plants or structures containing friable asbestos insulation materials, and the removal of asbestos from buildings or structures in which asbestos is liable to become airborne, are undertaken only by employers or contractors recognized by the competent authority as qualified to carry out such work; and (ii) employers or contractors shall draw up a work plan before commencing demolition work, in consultation with the workers or their representatives.***

***Article 19. Removal of waste containing asbestos.*** In reply to its previous comments, the Committee notes the Government's references to section 21 of Act No. 17283 on environmental protection, as amended in 2019, which provides, firstly, that it is in the general interest to protect the environment against any effects that may derive from the production, handling and any waste management operations and their elements, whatever their type and throughout their life cycle and, secondly, that the Ministry of Housing, Land Management and the Environment shall issue and apply the necessary measures to regulate the management of waste, of whatever type, including the production, collection, transport, storage, marketing, recycling and other forms of recovery, treatment and final disposal. The Committee notes that the Government has provided information on the Hazardous Waste Removal Guide, which was drawn up with the aim of training municipal personnel in the management of such waste, including asbestos, and the indication that there is a list of registered operators authorized to handle, transport, destroy and dispose of waste, including hazardous waste. ***The Committee requests the Government to provide information on the measures taken to ensure that: (i) employers are required to remove waste containing asbestos in such a manner that it does not present a risk to the health of the workers concerned, including those handling asbestos waste, or the population living in the vicinity of the company; and (ii) the competent authority and the employers are required to adopt appropriate measures to prevent pollution of the general environment by asbestos dust released from workplaces.***

***Article 22(2). Establishment by employers of written policies and procedures on measures for the education and periodic training of workers on asbestos hazards. Noting that information has not been provided in this respect, the Committee once again requests the Government to adopt the necessary measures to ensure that employers establish***

*written policies and procedures on measures for the education and periodic training of workers on asbestos hazards and methods of prevention and control.*

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. 13** (Afghanistan); **Convention No. 45** (Afghanistan, United Kingdom: Falkland Islands (Malvinas), United Kingdom: Gibraltar); **Convention No. 62** (Malta); **Convention No. 115** (Lebanon, Tajikistan, Turkey, Ukraine, United Kingdom, Uruguay); **Convention No. 119** (Malta, Tajikistan, Turkey); **Convention No. 120** (Lebanon, Tajikistan, United Kingdom, Viet Nam); **Convention No. 127** (Lebanon, Malta, Thailand, Turkey); **Convention No. 136** (Plurinational State of Bolivia, Lebanon, Malta, Uruguay, Zambia); **Convention No. 139** (Afghanistan, Ireland, Lebanon, Uruguay); **Convention No. 148** (Lebanon, Malta, Tajikistan, United Republic of Tanzania, United Kingdom, United Kingdom: Anguilla, Zambia); **Convention No. 155** (Belize, China, Sao Tome and Principe, Tajikistan, Turkey, Uruguay, Viet Nam, Zambia); **Convention No. 161** (Gabon, Turkey, Uruguay); **Convention No. 162** (Plurinational State of Bolivia, Montenegro, Uganda, Uruguay); **Convention No. 167** (Plurinational State of Bolivia, China, Montenegro, Turkey, Uruguay); **Convention No. 170** (China, Lebanon, United Republic of Tanzania); **Convention No. 174** (Lebanon); **Convention No. 176** (Lebanon, Turkey, Uruguay, Zambia); **Convention No. 184** (Uruguay); **Convention No. 187** (Chile, Republic of Korea, Montenegro, Thailand, Togo, Turkey, United Kingdom, Zambia).

The Committee noted the information supplied by the following State in answer to a direct request with regard to **Convention No. 13** (Togo).

## Social security

### Barbados

#### **Equality of Treatment (Social Security) Convention, 1962 (No. 118)** (ratification: 1974)

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 2020, 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.

With reference to its previous comments, the Committee notes with *satisfaction* the adoption of the National Insurance and Social Security (Benefit) (Amendment) Regulations, 2006 (SI 2006 No. 130), by which section 59 of the principal Regulations of 1967 was replaced by the new text which permits payment of benefits abroad to persons who are residing in another country, in accordance with *Article 5 of the Convention*. *The Government is invited to provide information in its next report on actions taken to implement the new Regulations, including any related judicial or administrative decisions.*

*The Committee expects 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)

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.*

### Djibouti

#### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1978)

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 2020, 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(2) of the Convention. Equality of treatment in relation to compensation for industrial accidents.* Ever since the Convention was ratified in 1978, the Committee has been drawing the Government's attention to the need to amend section 29 of Decree No. 57-245 of 1957 concerning compensation for industrial accidents and occupational diseases in order to bring the national regulations into conformity with *Article 1(2)* of the Convention, according to which the nationals of States that have ratified the Convention and their dependants must receive the same treatment as Djibouti grants to its own nationals in respect of accident compensation. Under the terms of the Decree No. 57-245 of 1957, unlike nationals, foreign workers injured in industrial accidents who transfer their residence abroad no longer receive a periodic payment but a lump-sum payment equal to three times the periodic payment they received previously. The Committee notes that the Government refers in its report to Act No. 154/AN/02/4ème-L of 31 December 2002 codifying the functioning of the Social Protection Institute (OPS) and the general retirement scheme for employees, indicating that the Act does not prescribe different treatment for national and foreign employees and their dependants with regard to compensation for industrial accidents and, in accordance with the Convention, does not impose any residence requirement for foreign workers to be entitled to benefits. The Committee observes, however, that the abovementioned Act does not primarily deal with periodic payments for industrial accidents but rather with the issue of those payments being combined with retirement benefits. It further observes that, in its report on the Workmen's Compensation (Accidents) Convention, 1925 (No. 17), the Government continues to refer to the provisions of Decree No. 57-245 of 1957 in the context of the regulations governing periodic payments for industrial accidents. ***In view of the above, the Committee again requests that the Government amend section 29 of Decree No. 57-245 of 1957 so as to bring the national legislation into full conformity with Article 1(2) of the Convention.***

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

### **Sickness Insurance (Industry) Convention, 1927 (No. 24) (ratification: 1978)**

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 2020, 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. Setting up a system of compulsory sickness insurance.* The Committee notes that Act No. 212/AN/07/5ème-L establishing the National Social Security Fund (CNSS) provides that new complementary social instruments such as sickness insurance will be instituted by means of regulations (section 5 of the Act). It also notes the adoption of Act No. 199/AN/13/6ème-L of 20 February 2013 extending treatment coverage to self-employed workers and of Decree No. 2013-055/PR/MTRA of 11 April 2013 establishing CNSS registration procedures and contributions for self-employed workers. The Government states that these items of legislation are the precursor to establishing a universal sickness insurance system in Djibouti in the near future. ***The Committee hopes that once this insurance system is established it will cover the payment of sickness benefits to insured persons, which are currently covered by employers, contrary to the terms of the Convention. It requests the Government to keep it informed of any developments regarding the introduction of a universal sickness insurance system.***

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

### **Invalidity Insurance (Industry, etc.) Convention, 1933 (No. 37)**

***(ratification: 1978)***

### **Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)**

***(ratification: 1978)***

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 2020, then it may proceed with the examination of the application of these Conventions on the basis of the information at its disposal at its next session.

*Establishment of a compulsory invalidity insurance scheme.* With reference to its observation relating to the Sickness Insurance (Industry) Convention, 1927 (No. 24), the Committee recalls that the national social protection system has been undergoing restructuring for a number of years, which involves the merger of various insurance funds in the interests of more efficient management. In this context, although the social protection system has no specific branch for invalidity benefits, the Government indicates that Act No. 154/AN/02/4ème-L of 31 January 2002 codifying the operation of the Social Protection Institute (OPS) and the general retirement scheme for salaried employees, contains several provisions that authorize workers aged 50 years and over who are affected by a permanent physical or mental impairment to claim an early retirement pension when they have accrued a minimum of 240 contribution months (section 60 ff.). The Committee emphasizes that, even though it is justified in the context of early retirement, the fixing of a minimum age at which a person can receive invalidity benefit, as set forth by Act No. 154, is in breach of *Article 4 of Convention No. 37* and the *Invalidity Insurance (Agriculture) Convention, 1933 (No. 38)*. Moreover, the length of the qualifying period for entitlement to invalidity benefit must not, according to *Article 5(2)* of Conventions Nos 37 and 38, exceed 60 contribution months. ***In view of the failure of these provisions to give effect to the main requirements of Conventions Nos 37 and 38, the Committee requests the Government to carry out the feasibility studies needed to establish an invalidity insurance scheme.***

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

## Dominican Republic

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1956)

#### **Follow-up to the recommendations of the tripartite committee** **(Representation made under article 24 of the ILO Constitution)**

*Article 1 of the Convention. Equality of treatment between national and foreign workers.* The Committee recalls that, in its previous comments, it examined the measures taken by the Government, in agreement with the social partners, with a view to following up on the recommendations made in 2013 by a tripartite committee and adopted by the ILO Governing Body in order to ensure equality of treatment between foreign and national workers. The Governing Body recommended in particular to amend sections 3 and 5 of Act No. 87-01 in order to remove the residency condition imposed on foreign workers for coverage in case of employment injuries. The Committee asked the Government to indicate the measures taken with a view to guaranteeing in practical terms all social security rights recognized by Decree No. 96-16 and Resolution No. 377-02, particularly regarding sectors employing an important number of foreigners, and the progress made with respect to the electronic registration which should have taken place no more than 90 days following the adoption of Resolution No. 377-02 in November 2015. The Committee notes the Government's indication in its report that in October 2016 the Social Security Treasury (TSS) implemented technical adjustments so as to allow employers to affiliate foreign workers to the social security insurance system. The Committee also notes that a tripartite dialogue round table on labour migration discussed the issues relating to labour migrants, and that an agreement was signed in March 2017 between the Ministry of Labour, the TSS, the Directorate of Information and Defence of Affiliates (DIDA), and the Dominican Association of Banana Producers (ADOBANANO), with the participation of the ILO, the European Union and the United Nations Development Programme, to promote the affiliation of the producers and workers in the banana sector of the Azua, Montecristi, and Valverde provinces. The Committee welcomes the Government's indication that, in practice, 14,914 social security numbers have been issued for foreign workers as a result of the measures described. The Committee also notes that, according to Resolution of the National Social Security Council No. 377-02 of 12 November 2015, more than 289,000 foreigners were included in the National Plan for the Regularization of Foreigners. **The Committee requests the Government to continue providing information on measures that enable foreign workers to join the occupational risk insurance scheme without a condition of residence, as recommended by the Tripartite Committee and adopted by the Governing Body, including information on the number of foreign workers registered in accordance with Decree No. 96-16 and Resolution No. 377-02. The Committee further requests the Government to continue providing information concerning the implementation of the National Plan for the Regularization of Foreigners and to indicate the measures in place to ensure the coverage of the foreign workers concerned in case of occupational accidents, including the provision of benefits to foreign workers who no longer reside in the Dominican Republic and to their dependants when they reside abroad.**

## Greece

### **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1952)**

The Committee notes the observations of the Greek General Confederation of Labour (GSEE) received in 2017.

*Article 2 of the Convention. Conformity of the national list of occupational diseases with the Schedule established by the Convention.* Further to its previous request on the draft national list of occupational diseases, the Committee notes with **satisfaction** that as indicated by the Government in its report, Annex I of the European schedule of occupational diseases, 2003/670/EC, became an integral part of the Presidential Decree No. 51 of 2012. The Committee further notes the Government's indication that a working group is to be established to set out the criteria for the recognition of occupational diseases based on the Explanatory Notes of the European Commission. In this regard, the Committee notes the GSEE's observations that the new Schedule of occupational diseases has not been activated yet due to the fact that the necessary legislation determining the diagnostic criteria has not been issued. **The Committee requests the Government to provide information in this respect.**

*Application of the Convention in practice.* In its previous comments, the Committee requested the Government to explain the reasons for the significant drop in the number of new cases of recognized occupational diseases and to provide information on the functioning in practice of the procedure for recognizing a disease as occupational. The Committee notes the Government's indication that the number of occupational diseases remains low (less than 10 per year) and that the statistical processing is currently not feasible in practice. The Government further indicates its participation in an informal EU Group of Experts to lay down common criteria for diagnosing occupational diseases and address the lack of statistical data reliability and comparability on occupational diseases. The Committee notes the GSEE's observations that the prevalence of occupational diseases is still not adequately monitored. **The Committee requests the Government to provide information on the necessary measures taken or envisaged to ensure the monitoring and collection of statistical data on occupational diseases.**

## Guinea

### **Equality of Treatment (Social Security) Convention, 1962 (No. 118)** (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 2020, 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. Payment of benefits in the case of residence abroad.* Referring to its previous comments, the Committee notes with *interest* the conclusion in 2012 of the Economic Community of West African States (ECOWAS) General Convention on Social Security, which aims in particular to enable migrant workers who have worked in one of the 15 ECOWAS member States to exercise their right to social security in their country of origin through the coordination of national social security systems. *However, since Cabo Verde is the only other ECOWAS member State that has ratified Convention No. 118, the Committee requests the Government once again to indicate whether, as it understands from its reading of section 91 of the Social Security Code, nationals of any State that has accepted the obligations of the Convention for the corresponding branch should in principle be able to claim payment of their benefits in the case of residence abroad. If so, the Committee requests the Government to indicate whether a procedure for the transfer of benefits abroad has been established by the National Social Security Fund to meet any requests for the transfer of benefits abroad. In addition, the Committee requests the Government to clarify whether any Guinean nationals transferring their residence abroad would also be entitled to have their benefits transferred abroad, in accordance with the principle of equal treatment established under Article 5 of the Convention.*

*Article 6. Payment of family benefit.* Referring to the comments it has been formulating for many years regarding the provision of family allowances in respect of children residing abroad, the Committee notes that, under section 94(2) of the Social Security Code, to be entitled to family benefit, dependent children "must reside in the Republic of Guinea, subject to the special provisions of the international Conventions on social security of the International Labour Office, reciprocal agreements or bilateral or multilateral agreements". With respect to reciprocal agreements or bilateral or multilateral agreements, the Committee recalls that to date Guinea has concluded no agreement of this sort for the payment of family allowances in respect of children residing abroad. Regarding the special provisions of the ILO Conventions, it recalls that under *Article 6* of Convention No. 118 any State which has accepted the obligations of the Convention for branch (i) (family benefit) must guarantee payment of family allowances both to its own nationals and to the nationals of any other Member which has accepted the obligations of the Convention for that branch, as well as for refugees and stateless persons, in respect of children who reside on the territory of any such State, under conditions and within limits to be agreed upon by the States concerned. *The Committee notes that the Government's report does not provide any information in this respect and hopes that the Government will be able to confirm formally in its next report that the payment of family benefit will also be extended to cover insured persons up to date with their contributions (whether they are nationals, refugees, stateless persons or nationals of any other States which have accepted the obligations of the Convention for branch (i) whose children reside in the territory of one of these States and not in Guinea. The Committee also requests information as to how the condition of residence is dispensed with in these cases for the application of section 99(2) of the Code, which only recognizes as dependent those children "that live with the insured person", and also for section 101, which makes payment of family allowances subject to an annual medical examination of the child, up to the age where he or she comes under the school medical service, and the regular medical care for beneficiaries of school age attending courses in educational or vocational training establishments.*

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.*

## Haiti

### **Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)** (ratification: 1955)

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1955)

### **Sickness Insurance (Industry) Convention, 1927 (No. 24)** (ratification: 1955)

### **Sickness Insurance (Agriculture) Convention, 1927 (No. 25)** (ratification: 1955)

### **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)** (ratification: 1955)

The Committee notes the observations of the Confederation of Public and Private Sector Workers (CTSP), received on 1 September 2019, concerning the application of Conventions Nos 12, 17, 24, 25 and 42. The Committee notes that the CTSP alleges the dysfunction of the Board of Directors of Social Security Organisations (CAOSS), as well as the need to carry out actuarial studies and audits on the Employment Injury, Sickness and Maternity Insurance Office (OFATMA) and resuming discussions on a thorough reform of the Ministry of Social Affairs and Labour (MAST), in the framework of social dialogue. At the same time, the Committee notes the indication that a campaign for the ratification of Convention No.102 and the implementation of Recommendation No. 202 was conducted. *The Committee requests the Government to provide its comments on these observations.*

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 2020, 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 Confederation of Public and Private Sector Workers (CTSP), received on 30 August 2017 and 29 August 2018, and the observations of the Association of Haitian Industries (ADIH), received on 31 August 2018, concerning the application of ratified Conventions on social security. The Committee notes with **deep concern** that the Government's reports for Conventions Nos 12, 17, 24, 25 and 42 have not been received. While it is therefore bound to repeat its previous comments initially made in 2012, 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 on the Application of Standards, it has requested ILO technical assistance with a view to helping in the presentation of the reports due, strengthening the inspection services, consolidating social dialogue for the continuation of social reforms, and addressing the other points raised by the Conference Committee. The Government adds that it hopes to receive the requested assistance before the next session of the International Labour Conference. **The Committee hopes that this technical assistance will be provided without delay and that it will give rise to timely delivery of all outstanding reports. It also requests the Government to send its comments on the observations of the CTSP and the ADIH.**

The Committee notes the observations made by the Confederation of Public and Private Sector Workers (CTSP), received on 31 August 2016, by which it reiterated most of the issues raised previously, indicating that, even though some state efforts to increase the coverage of the insurance have been visible, these were focused on the capital city, leaving apart the people living in rural areas.

The Committee notes that on 15 September 2015 the Confederation of Public and Private Sector Workers (CTSP) provided its observations concerning the application of the Conventions under examination. The CTSP indicates that the affiliation of employers to the Employment Injury, Sickness and Maternity Insurance Office (OFATMA), although a legal obligation, is a reality in practice for less than 5 per cent of workers. In the specific case of agricultural workers, the CTSP considers that it is necessary to take urgent measures to extend effective coverage by the OFATMA, as they represent the majority of workers in the country and produce 30 per cent of the gross domestic product, and yet they remain without any social protection.

The Committee is fully aware that the Government indicated in its last report that the Act of 28 August 1967, establishing the OFATMA, covers all dependent workers irrespective of their sector of activity, but that the absence of formal agricultural enterprises means that most agricultural workers are engaged in family subsistence agriculture and are excluded from the scope of the social security legislation. Nevertheless, the Committee observes that the application of the existing legislation appears to give rise to difficulties, even with regard to workers in the formal economy. Moreover, the sickness insurance scheme has never been established, even though the Government has indicated that it is pursuing its efforts to establish progressively a sickness insurance branch covering the whole of the population and to enable OFATMA to regain the trust of the population.

**With a view to better assessing the challenges facing the country in the application of the social security Conventions and providing better support for the initiatives taken in this respect, the Committee requests the Government to provide further information in its next report concerning the functioning of the employment injury scheme administered by OFATMA (numbers covered, amount of contributions collected annually, number of employment accidents and occupational diseases recorded, amount of benefits paid for employment injury). Please include information on strategies for increasing participation in and utilization of OFATMA services by the eligible populations.**

*International assistance.* The Committee notes that the Government is receiving substantial support from the ILO and the international community, particularly in the field of labour inspection. Moreover, since 2010, the ILO and the United Nations system as a whole have made available to the Government their expertise for the establishment of a social protection floor. The Committee considers that it is necessary for the Government to envisage as a priority the establishment of mechanisms to provide the population as a whole, including informal workers and their families, with access to essential health care and a minimum income when their earnings capacity is affected as a result of sickness, employment accident or occupational disease. In this regard, the International Labour Conference adopted the Social Protection Floors Recommendation (No. 202) in 2012, with a view to the establishment of basic social security guarantees to prevent and alleviate poverty, vulnerability and social exclusion. In this connection, the implementation of Conventions and of Recommendation No. 202 should continue in parallel, seeking and exploiting synergies and complementarity.

The Committee recalls that the establishment of a social protection floor was included by the Haitian Government as one of the elements of the Action Plan for National Recovery and Development of Haiti, adopted in March 2010. However, the Government has not yet provided any information on the measures adopted to achieve this objective. The Committee notes, among other matters, the conclusion in 2010 of a national programme for the promotion of decent work which includes an item dedicated to the establishment of the social protection system under the social security Conventions ratified by Haiti.

*Conclusions and recommendations of the Standards Review Mechanism.* The Committee notes that, at its 328th Session in October 2016, the Governing Body of the ILO adopted the conclusions and recommendations formulated by the Standards Review Mechanism Tripartite Working Group (SRM TWG), recalling that Conventions Nos 17, 24, 25 and 42 to which Haiti is party are outdated and charging the Office with follow-up work aimed at encouraging States party only to these Conventions to ratify the following instruments as they represent the most up-to-date standards:

- As regards employment injury: 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 regards medical care and sickness benefit: the Medical Care and Sickness Benefits Convention, 1969 (No. 130) and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Parts II and III.

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

## Honduras

### **Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42) (ratification: 1964)**

The Committee notes the observations of the Honduran National Business Council (COHEP), received in 2017, and the Government's reply to these observations.

*Article 1 of the Convention. Notification of occupational diseases.* The Committee recalls that for many years it has drawn the Government's attention to the operational difficulties of the system for the notification of occupational diseases. The Committee notes that, in its report, the Government indicates that the regular session of the National Workers' Health Commission of Honduras (CONASATH) was convened with a view to identifying health and safety needs of the workers in the country, with the participation of representatives from the General Confederation of Work, the Honduran Social Security Institute, the Honduran Council of Private Enterprises, the National Autonomous University of Honduras, the Ministry of Labour and Social Security and the Ministry of Health, addressing the issue of the notification of occupational diseases. The Committee notes that, at this meeting, it was agreed to request the technical assistance of the ILO. The Committee also notes that the Government sent a memorandum to the Subsecretary of State for Labour and Social Security in April 2017 on the need to reform the Labour Code in order to include an obligation to notify of occupational diseases. The Committee also notes the observations of the COHEP reporting that no progress has been made with regard to the obligation to notify of occupational diseases. ***The Committee requests the Government to make every effort to establish without further delay an effective system of notification of occupational diseases, and once again requests the Government to keep it informed of any developments with a view to ensuring for all victims of occupational diseases or their dependants compensation that is in line with and gives full effect to Article 1 of 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. 42 is in force should be encouraged to ratify the more recent Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121), or to accept the obligations in Part VI of the Social Security (Minimum Standards) Convention, 1952 (No. 102) (see GB.328/LILS/2/1). Conventions Nos 121 and 102 reflect a more modern approach to occupational accidents and diseases. ***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 Convention No. 121 or accepting the obligations in Part VI of Convention No. 102, as the most up-to-date instruments in this subject area.***

## Hungary

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1928)**

*Article 5 of the Convention. Conditions of eligibility – disability pension.* In its previous comments, the Committee observed that some of the eligibility conditions for compensation in case of permanent incapacity laid down in Act No. LXXXIII of 1997 on mandatory healthcare benefits (Act No. LXXXIII of 1997) and Act No. CXCI of 2011 on benefits due to persons with reduced working capacities (Act No. CXCI of 2011) were not fully in line with the guiding principles contained in international standards on employment injury protection, including this Convention. Noting in particular the qualifying period of three years of insurance for entitlement to disability benefit set out in Act No. CXCI of 2011, the Committee asked the Government to indicate how it intended to give effect to the long established principle of international social security law, contained in this Convention, that benefits due in case of a work-related accident shall not be subjected to qualifying periods. In this respect, the Committee notes, as stated by the Government in its report, that injured workers who do not meet the conditions for eligibility to the disability pension are entitled to an accident allowance if they have a permanent health impairment of 13 per cent and over (section 57 of Act No. LXXXIII of 1997). The Committee further notes that the amount of accident allowance corresponds to 8, 10, 15 or 30 per cent of the monthly average income, depending on the degree of disablement of the injured worker (section 58(2) of Act No. LXXXIII of 1997), which is substantially lower than the amount of the disability pension, ranging from 40 to 70 per cent of the workers' average monthly wage (section 12 of Act No. CXCI of 2011), depending on his/her degree of disability. The Committee recalls that the objective of the Convention is to ensure that workers who suffer personal injury due to an industrial accident receive compensation to make up for the resulting loss of earning capacity they incur, based on their former earnings and their degree of disability. For such purpose, the Workmen's Compensation (Minimum Scale) Recommendation, 1925 (No. 22), Part I, calls for: (1) a periodical payment equivalent to two-thirds of the worker's annual earnings to be paid in the case of permanent total incapacity; and (2) a proportion thereof to be paid in case of partial permanent incapacity, calculated in reference to the reduction of earning power caused by the injury. The Committee observes that, while the level of disability pension is in line with this provision, the level of accident allowance set out in Act No. LXXXIII of 1997 is far from the recommended levels, resulting in amounts of compensation that are significantly lower than the previous earnings of the injured worker, even in cases where the degree of incapacity is such as to prevent the worker from earning income on the labour market. The Committee considers that compensation for total or substantial permanent incapacity in an amount or at

a level that is not sufficient to allow an injured worker and his/her family to enjoy standards of living comparable to those they would have enjoyed if the accident hadn't occurred would not be in line with the objectives of the Convention. ***On this basis, the Committee requests the Government to take the necessary measures to ensure that injured workers who suffer a permanent incapacity, total or substantial, due to a work-related accident and who do not fulfil the three year qualifying period for entitlement to a disability pension are provided with compensation at a level that is sufficient to enable the injured worker to sustain him/herself and his/her family in conditions comparable to those they enjoyed prior to the accident, and in any event, comparable to that of the disability pension.***

With respect to the condition that workers do not perform remunerated work, the Committee recalls that ILO standards do not preclude the victims of occupational accidents the possibility to use their remaining working capacity in order to complement their pensions with some earnings gained out of employment. Finally, with respect to the condition that prohibits the recipients of the employment injury benefit from receiving any other cash benefit, the Committee also recalls that the Convention permits the accumulation of employment injury benefits and other cash benefits. ***The Committee once again hopes that the Government will adjust the qualifying conditions for entitlement to disability benefit, where the disability is due to an employment injury, with a view to ensuring full compliance with the Convention and requests the Government to keep it informed of any measures taken to that effect.***

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 this Convention 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 121 and 102 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 121 or 102 (Part VI) as the most up-to-date instruments in this subject area.***

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

## Republic of Korea

### ***Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 2001)***

The Committee notes the observations of the Federation of Korean Trade Unions (FKTU) communicated with the Government's report and the observations of the Korean Confederation of Trade Unions (KCTU), received on 31 August 2018.

***Article 1 of the Convention. Equality of treatment of migrant workers.*** In its previous comments, the Committee requested the Government to take measures aimed at re-establishing equality of treatment between national and foreign workers by amending sections 57 and 58 of the Industrial Accident Compensation Insurance Act (IACIA), pursuant to which the employment injury disability pension of foreign workers, who leave the Republic of Korea, is converted into a lump sum whereas Korean nationals continue receiving such pensions while residing abroad. The Committee notes the reply provided by the Government in its report, which refers to difficulties in monitoring the eligibility of foreign nationals to employment injury pensions (for example, due to death or remarriage) after they leave the country while the eligibility of Korean nationals residing abroad can be checked through the Korean Ministry of Foreign Affairs. In this regard, the Committee notes the Government's intention to continue consulting with other countries who are parties to the Convention to find ways to facilitate the sharing of information necessary for the payment of benefits to foreign nationals who reside abroad. The Committee also notes the FKTU's observations indicating that the Government should ensure the collection of the information on eligibility of foreign nationals to employment injury pensions through the Employment Permit System (EPS) centres of the foreign nationals' countries of origin. In this regard, the Committee takes note of the Government's reply that the EPS centres lack personnel and therefore cannot handle the additional task of reviewing pension eligibilities of injured foreign workers. The Committee further notes that, according to the KCTU, measures should be taken to enable injured foreign workers to receive disability aids, rehabilitation services, including treatments for complications and vocational training after they return to their countries of origin. The KCTU also indicates that seafarers who are subject to the Act on Accident Compensation Insurance for Fishers and Fishing Vessels of 2017 get a compensation for employment injury based on a minimum wage scale that is lower than the minimum wage applicable to national seafarers. In addition, the KCTU refers to language barrier as a main source of difficulties for foreign workers in applying for workers' compensation and participation in post-accident vocational trainings. ***The Committee urges the Government to take the necessary measures: (1) to ensure equality of treatment in respect of workers' cash compensation and medical care benefits for all foreign workers, including seafarers, who are nationals of any other Member which has ratified the Convention; and (2) to ensure the provision of employment injury pensions instead of lump sums to foreign workers leaving the Republic of Korea, with a view to give full effect to Article 1 of the Convention. The Committee requests the Government to keep it informed of agreements concluded with other ratifying countries in this regard. The Committee also requests the Government to take the necessary measures to facilitate the access of foreign workers to employment***

*injury benefits by ensuring that relevant documents and information are available in a language that they can understand.*

*Application of the Convention in practice.* In its previous comments, the Committee requested the Government to provide information on new legal provisions on securing better compliance with the national legislation on employment injury. The Government replies that it continues strengthening penalties for employers who failed to report or who concealed industrial accidents by adopting new provisions on criminal punishment and increasing fines. The Committee notes the FKTU's observations indicating that although there is an increase in the number of applications for recognition of industrial accidents, stronger punishment measures should be imposed to prevent employers from not reporting and concealing industrial accidents. In this regard, the Government indicates that it intends to promote education activities and campaigns on the reporting on industrial accidents in the workplace, and enhance administrative and legal enforcement actions. ***The Committee requests the Government to provide information on the outcome of the measures taken to enhance the enforcement and application of the national legislation.***

## Lebanon

***Workmen's Compensation (Accidents) Convention, 1925 (No. 17)***  
(ratification: 1977)

***Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)***  
(ratification: 1977)

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.*

## Malaysia

### Peninsular Malaysia (ratification: 1957)

#### Sarawak (ratification: 1964)

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)**

#### **Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018)**

In its previous comment, the Committee hoped that the Government would take advantage of the direct contacts mission requested by the Committee on the Application of Standards (CAS) with a view to implementing its conclusions as well as its long-standing requests, so as to guarantee to foreign workers the right to equality of treatment with national workers in case of employment injury, and requested a reply from the Government on the issue raised in its comments. The Committee welcomes that the direct contacts mission took place from 14 to 17 October 2019, and takes note of the findings and recommendations contained in its report.

The Committee recalls that the CAS, in June 2018, urged the Government to: (i) take steps to develop and communicate its policy for governing the recruitment and treatment of migrant workers; (ii) take immediate steps to conclude its work on the means for reinstating the equality of treatment of migrant workers, in particular by extending the coverage of the Employees' Social Security Scheme to migrant workers in a form that is effective; (iii) engage in genuine consultations with employers' and workers' organizations to develop laws and regulations that ensure the removal of discriminatory practices between migrant and national workers, in particular in relation to workplace injury; (iv) adopt special arrangements with other ratifying member States to overcome the administrative difficulties of monitoring the payment of compensation abroad; and (v) take necessary legal and practical measures to ensure that migrant workers have access to medical care in the case of workplace injury. The Committee notes with *satisfaction* that the coverage of accident compensation for foreign workers under the Employees' Social Security Act, 1969 (ESSA) is being implemented, as indicated by the Government in its report. In this regard, the Committee notes that, as of 1 January 2019, foreign workers' protection in case of work-related injury has moved from the scope of the Foreign Workers' Compensation Scheme under the Workmen's Compensation (Foreign Workers' Compensation Scheme) (Insurance) Order, 2005, to the Employees' Social Security Scheme (ESSS), administered under the Employees' Social Security Act, 1969 (Act 4) (ESSA, 1969). The Committee observes more particularly that, under this Act, foreign workers who suffer a work-related injury are now entitled to periodical payment for temporary disability and permanent disablement as a result of an employment injury, medical treatment, and constant attendance care for the workers with disabilities. Furthermore, the dependants of an insured foreign worker who dies as a result of a work-related injury are entitled to periodical payments for loss of support; and funeral benefits (sections 15 and 57, ESSA, 1969). The Committee further observes that these benefits are provided in the same manner and amount in respect of foreign workers and national workers, with the exception of the funeral grant, which is higher for foreign workers. The Committee further notes, from the direct contacts mission report, the importance that the authorities and social partners attach to tripartite consultation and social dialogue in this process. The Committee notes however the view of the Malaysian Trade Union Congress (MTUC) and the Malaysian Employers' Federation (MEF) that the effectiveness of consultative and participatory processes could be improved to better benefit from their insights and support in the implementation of the legislative amendments, the adoption of a work plan, and effective follow-up.

*In light of the above, the Committee requests the Government to ensure, through the appropriate mechanism, genuine, effective and meaningful social dialogue and a participatory process involving social partners in the implementation of the above-mentioned provisions, and to provide information on any measures taken to this effect. The Committee trusts that this dialogue will be framed by the issues addressed in the direct request. 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.

## Panama

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1958)

*Article 5 of the Convention, in conjunction with Article 2(1). Payment of compensation in the form of periodical payments without limit of time.* In its previous comments, the Committee referred to the need to amend the provisions of sections 306 and 311 of the Labour Code in order to provide for the payment of compensation in the form of periodical payments without limit of time, in the event of an occupational accident resulting in permanent incapacity or death, to workers who are not covered by the compulsory social security scheme and are governed by the provisions of the Labour Code, but are covered by the Convention or their dependants. The Committee notes the Government's indication in its report that, with a view to bringing the legislation into line with the Convention, the actuarial department conducted a study entitled "Actuarial financial analysis of the occupational risk programme", but a national consensus had not been reached regarding a reform of compensation for occupational accidents. The Committee recalls that the Convention requires, save for the exceptions it establishes, legislation on compensation for occupational accidents that provides for conditions at least equal to those provided by the Convention and, under *Article 2(1)* shall apply to workmen, employees and apprentices employed by any enterprise, undertaking or establishment of whatsoever nature, whether public or private. **The Committee notes the measures taken and, recalling the possibility of seeking technical assistance from the Office, requests the Government to indicate the measures envisaged to bring sections 306 and 311 of the Labour Code into line with the relevant provisions of the social security legislation on compensation for occupational injury in order to guarantee the protection afforded by the Convention for all workers to which it applies.**

*Article 7. Provision of additional compensation to workers suffering employment injury when their condition requires the constant help of another person.* For a number of years the Committee has noted that neither the Labour Code nor the social security legislation concerning compensation for employment injury (Decree No. 68 of 31 March 1970) provides for the granting of additional compensation to injured workers whose condition requires the constant help of another person. The Committee notes the Government's indication that it is establishing a national forum for dialogue with a view to addressing the problems that could arise in the Social Security Fund (CSS) programme relating to invalidity, old age and death. **While taking due note of this information, the Committee trusts that, whether through the forum for dialogue mentioned by the Government or the Commission for bringing national legislation into line with the ILO Conventions, the necessary measures will be adopted in order to comply with Article 7 of the Convention.**

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism 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), and/or the Social Security (Minimum Standards) Convention, 1952 (No. 102), and accept the obligations in its Part VI, (see GB.328/LILS/2/1). Conventions Nos 102 and 121 reflect a more modern approach to compensation in the event of employment injuries and occupational diseases. **The Committee therefore encourages the Government to give effect to the Governing Body's decision adopted at its 328th Session (November 2016) to approve the recommendations of the SRM tripartite working group and to consider ratifying Conventions Nos 102 (Part IV) and 121, as most up-to-date instruments in this subject area.**

## Saint Lucia

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1980)

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 2020, 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.

With reference to its previous observation, the Committee notes the reply of the Government that, contrary to *Article 7 of the Convention*, no provision is made in national legislation for the payment of additional compensation for injured workers requiring the constant help of another person; and that compensation for all expenses (medical, surgical or pharmaceutical, etc.) is limited to 20,000 East Caribbean dollars, whereas no such ceiling is foreseen in the Convention in case of occupational accident (*Articles 9 and 10 of the Convention*). The Committee *regrets* to note that since the entry into force of the Convention in 1980 the Government has been unable to bring the provisions of the national legislation in conformity with *Articles 7, 9 and 10 of the Convention*. **In this situation, the Committee deems it necessary to ask the Government to undertake an actuarial study which will determine the financial implications of the introduction into the national insurance scheme of the benefits guaranteed by these Articles of the Convention. The Committee wishes to remind the Government of the possibility to avail itself of the technical assistance of the Office in this respect.**

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

## Sierra Leone

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1961)

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 2020, 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 that the country is mentioned in a special paragraph of the report of the Conference Committee on the Application of Standards for failure to supply information in reply to comments made by the Committee. *The Committee expects that the Government will be able to report on the application of Convention No. 17 soon and recalls that the technical assistance of the Office is at its disposal.*

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

## United Republic of Tanzania

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17)** (ratification: 1962)

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)** (ratification: 1962)

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 *interest* that the Government indicates in its report that the Workers Compensation Fund (WCF) is now operational and that the Workers' Compensation Regulations, 2016, have been adopted. In order to provide a comprehensive view of the issues relating to the application of the ratified Conventions on workmen's compensation, the Committee considers it appropriate to examine Conventions Nos 17 (accidents) and 19 equality of treatment (accident compensation) in a single comment.

*Workmen's Compensation (Accidents) Convention, 1925 (No. 17)*

*Article 5 of the Convention. Lump-sum compensation in the event of permanent incapacity.* The Committee noted in its previous comments that, according to section 49 of the Workers Compensation Act No. 20 of 2008, where a pension is less than the prescribed amount per month, the Director-General of the WCF may decide to pay a lump sum in lieu of the monthly pension for permanent disablement granted in accordance with section 48 of the Act. The Committee notes the Government's indication that the Workers' Compensation Regulations, 2016, have been adopted with a view to providing guidance for the implementation of the Act.

*Article 6. Payment of compensation.* In its previous comments, the Committee asked the Government to explain how and by whom the compensation is paid after the first month to injured workers. The Committee notes that the Government indicates that, under sections 46(3) and 46(4) of the Workers Compensation Act, employers are liable for providing to the injured employee the compensation for temporary incapacity for the first month, and that thereafter all payments will be provided by the Fund. Furthermore, the Committee notes that the Government states that, in any case, the Fund has put in place a mechanism to ensure that such payments can be provided directly by the Fund including for the first month.

*Article 7. Additional compensation.* The Committee noted in its previous comments that the right to additional compensation in cases in which the injured worker must have the constant help of another person should not depend upon an administrative decision of the WCF, as provided for by section 51 of the 2008 Act. The Committee notes the information provided by the Government, informing that the Regulations, 2016, provide that the Director-General of the WCF will determine constant care grants through Guidelines, as foreseen by regulation 40(1) of the Workers' Compensation Regulations 2016. The Committee also notes that through the Public Service Social Security Fund Act, 2018, section 40(2) of the National Social Security Fund Act, 1997, which provided for an additional allowance of 25 per cent of the employment injury benefit to the helper in case the recipient of permanent disability benefit for employment injury needed the constant help of another person, has been repealed. *The Committee asks the Government to take the necessary measures to include the legal rules concerning constant attendant care grants for temporary and permanent incapacity in the forthcoming Guidelines in order to give full effect to this provision of the Convention.*

*Articles 9 and 10. Medical aid free of charge. Artificial limbs and appliances.* In its previous comments, the Committee noted that according to section 62 of the Workers Compensation Act, 2008, the Fund shall pay the reasonable costs of medical aid required by an occupational accident for a maximum period of two years. The Fund may also pay the additional costs for further medical aid when it may reduce the incapacity. The Committee notes that the Government indicates that, under section 4 of the Act, a definition of medical aid including medical, surgical, hospital treatment, skilled nursing services as well as the supply and repair of any prosthesis or any devices necessitated, and ambulance service, is provided. The Committee also notes that the Government states that the Fund will provide surgical appliances, artificial limbs and pharmaceutical aid as part of the medical rehabilitation of the injured employee. The Government adds that the Committee's comments will be taken into account for the formulation of the Guidelines to be issued by the Director-General of the Fund, in accordance with the Workers' Compensation Regulations, 2016. *The Committee asks the Government to ensure that the Guidelines will include the definition of reasonable medical costs, as well as the renewal of artificial limbs and surgical appliances to be provided free of charge.*

*Article 11. Insolvency of the insurer.* The Committee notes the information provided by the Government concerning the insolvency of the employer or insurer, which acknowledges that the Government is the guarantor in case of insolvency of the Fund, also by virtue of a constitutional obligation.

The Committee has been informed that, based on the recommendations of the Standards Review Mechanism Tripartite Working Group (SRM TWG), 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) (Part VI) (see GB.328/LILS/2/1). Conventions Nos 121 and 102 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 TWG and to consider ratifying Conventions Nos 121 and/or 102 (Part VI) as the most up-to-date instruments in this subject area.**

*Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)*

*Article 1(2) of the Convention. Payment of accident compensation abroad. The Committee asks the Government to specify how the transfer abroad of cash benefits in case of industrial accidents is regulated as regards both nationals and foreigners and their dependants so as to ensure that nationals of other member States who have ratified the Convention receive the same treatment as the Government grants to its own nationals.*

*With respect to the legislation applicable in Zanzibar, the Committee asks the Government whether it envisages to amend the Workmen's Compensation Act No. 15 of 1986 of Zanzibar which puts the liability for the payment of compensation directly on the employer, so as to harmonize it with the Workers Compensation Act No. 20 of 2008, which provides a social insurance scheme in case of employment injuries and occupation diseases.*

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

## Thailand

### **Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1968)**

*Article 1 of the Convention. Equality of treatment in case of employment accident.* In its previous comments, the Committee requested the Government to provide information on the measures taken to ensure access to benefits from the Workmen's Compensation Fund for foreign workers. The Committee notes the Government's indication that the Workmen's Compensation Fund directly provides benefits to undocumented workers regardless of their nationality and legal status should they suffer employment injury and their employers are obligated to pay contributions. The Committee further notes the measures indicated by the Government to address the situation of undocumented migrant workers, including measures to facilitate the procedure of obtaining the relevant identity and working documents and informing by employers on the status of employment of migrant workers. The Committee further notes with *satisfaction* the adoption of the Workmen's Compensation Act No. 2 on 9 December 2018 (WCA 2018) and the Notification of the Ministry of Labour on 20 March 2019, which require the registration of employees engaged in the agriculture, fishery, forestry and livestock sectors within the Workmen's Compensation Fund. The Government points out that the expansion of coverage of the WCA 2018 has resulted in a significant increase in the number of employees covered by the Workmen's Compensation Scheme.

## United Kingdom

### **Workmen's Compensation (Accidents) Convention, 1925 (No. 17) (ratification: 1949)**

*Article 9 of the Convention. Cost-sharing for pharmaceutical products.* In its previous comments, the Committee requested the Government to indicate the measures taken to reduce cost sharing for pharmaceutical products outside the hospital for victims of occupational accidents. The Committee notes, as stated by the Government in its report, that prescription charges and the costs of dental treatment outside the hospital continue to be borne by recipients of industrial injuries benefits on the same basis as they are borne by people receiving other state benefits. The Committee further notes the Government's indication that assistance may be available, for example, in case of receipt of qualifying income-related benefits or in case of specified conditions related to age or health. As far as Northern Ireland is concerned, the Committee takes due note that all Health Service prescriptions dispensed outside the hospital are free of charge for everyone. **Recalling that, in accordance with Article 9 of the Convention, the cost of medical aid, surgical and pharmaceutical aid shall be provided free of charge, the Committee requests the Government to take the necessary measures to ensure the full application of Article 9 of the Convention with respect to the provision of pharmaceutical products outside the hospital to all persons protected in case of occupational injury.**

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 Workmen's Compensation (Accidents) Convention, 1925 (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 to accept Part VI of Social Security (Minimum Standards) Convention, 1952 (No. 102) (see GB.328/LILS/2/1). **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 Convention No 121 or accepting Part VI of Convention No. 102 as the most up-to-date instruments in this subject area.**

## Uruguay

### **Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) (ratification: 1973)**

Articles 13, 14 and 18 of the Convention, in conjunction with Article 19. Calculation of benefits. Article 21. Review of the amounts of long-term cash benefits. In relation to its previous comments, the Committee notes with *satisfaction* that the Government has provided the information requested on the level of benefits and their adjustment to changes in the cost of living.

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. 12** (Angola, Colombia, Dominica, Hungary, Panama, Peru, Portugal); **Convention No. 17** (Argentina, Colombia, Djibouti, Guinea-Bissau, Hungary, Portugal, Uganda, United Kingdom: Anguilla, Zambia); **Convention No. 18** (Angola, Colombia, Djibouti, Portugal, Zambia); **Convention No. 19** (Colombia, Dominica, Estonia, Greece, Malaysia: Peninsular Malaysia, Malaysia: Sarawak, Peru, Poland, Saint Lucia, Senegal); **Convention No. 24** (Austria, Colombia, Hungary, Peru); **Convention No. 25** (Colombia, Peru); **Convention No. 42** (Argentina, Hungary, Solomon Islands, Turkey, United Kingdom); **Convention No. 44** (Bulgaria, Spain); **Convention No. 102** (Argentina, Barbados, Bosnia and Herzegovina, Brazil, Bulgaria, Costa Rica, Cyprus, Greece, Honduras, Italy, Japan, Jordan, Peru, Poland, Portugal, Senegal, Serbia, Slovakia, Togo, Turkey, Ukraine, United Kingdom, Uruguay); **Convention No. 118** (Brazil, France, Guinea, Israel, Italy, Uruguay); **Convention No. 121** (Bosnia and Herzegovina, Cyprus, Finland, Guinea, Ireland, Japan, Senegal, Serbia, Slovenia, Uruguay); **Convention No. 128** (Barbados, Cyprus); **Convention No. 130** (Belgium, Finland, Slovakia); **Convention No. 168** (Brazil, Finland).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 12** (Norway); **Convention No. 19** (Japan, Norway); **Convention No. 36** (France); **Convention No. 42** (Brazil, Bulgaria); **Convention No. 102** (Belgium); **Convention No. 118** (Norway); **Convention No. 121** (Belgium, Chile); **Convention No. 128** (Austria, Finland, Uruguay); **Convention No. 130** (Uruguay).



## Maternity protection

### Equatorial Guinea

#### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1985)**

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 2020, 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.

With reference to its comments on the application of *Article 6 of the Convention*, the Committee notes that, like Act No. 8/1992, sections 111 and 112 of Act No. 2/2005 of 9 May 2005 on public servants allow women workers to be dismissed for gross misconduct following the appropriate disciplinary procedure. In previous reports, the Government indicated its intention to amend the legislation so that any misconduct by pregnant workers would give rise to a disciplinary procedure at the end of the period of maternity or postnatal leave. *The Committee hopes that the Government will take all the necessary measures to establish a formal prohibition on giving a public servant her notice of dismissal during her absence on maternity leave or at such time that the notice would expire during such absence.*

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

### Zambia

#### **Maternity Protection Convention (Revised), 1952 (No. 103) (ratification: 1979)**

*Articles 3 and 5 of the Convention. Reform of the labour legislation aimed at securing compliance with Articles 3 and 5. Maternity leave and nursing breaks.* In its previous comments, the Committee expressed the hope that the Government would be in a position to indicate tangible progress made in respect of the issues related to *Article 3* (need to grant maternity leave as of right regardless of any period of service), *Article 3(3)* (need to establish the compulsory nature of postnatal leave during the first six weeks after childbirth) and *Article 5* (need to establish a right to nursing breaks, counted as working time and remunerated accordingly). The Committee notes with *satisfaction* that the Government reports that tangible progress has been recorded with regards to the labour law reforms, which were concluded and gave effect to the Employment Code Act, No. 3 of 2019. The Committee notes that the Code addresses all the issues cited above, granting 14 weeks of maternity leave on production of a medical certificate to the employer, which may be taken immediately preceding the expected date of delivery or after the delivery, except that six weeks of maternity shall be taken immediately after delivery (section 41). The Committee also notes that nursing breaks have been established by section 45 of the Employment Code Act, providing that a female employee who is nursing her child is entitled, for a period of six months following her date of delivery, to at least two nursing breaks of 30 minutes each or one nursing break of one hour, not to be deducted from the number of paid hours of work.

*Article 4(4) and (8). Reforms aimed at introducing maternity benefits in the framework of a new social security system. Maternity cash benefits.* With reference to its previous comments, the Committee hoped that the Government would report some progress with a view to establishing a maternity protection branch as a component of the social security system. The Committee observes the new Employment Code Act, No. 3 of 2019 makes provision for maternity benefits in the framework of an employers' liability system, rather than providing maternity cash and medical benefits either by means of compulsory social insurance or by means of public funds, as required by *Article 4(4)* of the Convention, and precluding employers' liability as provided by *Article 4(8)* of the Convention. At the same time, the Committee notes the Government's indication that the National Social Health Insurance Act, No. 2 of 2018, provides for the establishment of a Maternity Protection Fund, which will be anchored in the already existing institutional framework provided by the National Pension Scheme Authority (NAPSA). The fund will receive monthly contributions from both employers and employees at rates to be determined actuarially in due course. *The Committee requests the Government to specify if the Maternity Protection Fund is intended to provide cash maternity benefits by means of compulsory social insurance with a view to move away from the current employers' liability system. The Committee further requests the Government to provide information regarding the state of implementation of the Maternity Protection Fund and of any other measure taken or envisaged to give effect to Article 4(4) and (8), of 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. 103 is in force should be encouraged to ratify the more recent Convention No. 183 (see GB.328/LILS/2/1). Convention No. 183 reflects the more modern approach to maternity protection. *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 Convention No. 183 as the most up-to-date instrument in this subject area.*

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. 103** (*Tajikistan, Uruguay, Uzbekistan, Zambia*); **Convention No. 183** (*Norway, Peru, Senegal*).

## 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 2020, 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.*

### Jamaica

#### **Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)** (ratification: 1966)

*Parts I and II of the Convention. Improvement of standards of living.* In its 2013 and 2018 comments, the Committee requested the Government to provide updated information on how effect is given to *Article 2* of the Convention, so that the improvement of living standards is considered as “the principal objective in the planning of economic development”. The Committee also requested information on the measures taken to promote cooperatives and improve the living standards for workers in the informal economy (*Articles 4(e)* and *5* of the Convention). In its report, the Government affirms its continued commitment to programmes that support a stable macroeconomic environment which facilitates the economic growth required for sustainable and inclusive development. The Government indicates that this commitment is expressed through: the development of projects and programmes providing training and apprenticeship opportunities for young persons; the creation of an investment-friendly environment in areas consistent with its growth policy; and the institution of mechanisms aimed at disrupting criminal networks and protecting Jamaica's borders. The Committee notes the measures taken by the Government to improve the standards of living of workers in both the formal and informal economies. In this respect, the Government refers to Vision 2030 Jamaica – National Development Plan (2009) as the guiding social and economic policy framework for the country, which places people at the core of development. The Vision 2030 plan refers to: development of a Social Protection Strategy in 2014 aimed at enhancing social security for the population; the definition of the key elements of a social protection floor to ensure the provision of basic income security and basic social services for all citizens, particularly for people in vulnerable situations; and the development and approval in 2017 of a revised National Policy on Poverty and accompanying National Poverty Reduction Programme. The Government highlights that key tenets of its poverty reduction and social protection strategies include building resilient livelihoods and the extension of social security provisions to persons in the informal economy as well as to workers in non-formal employment relationships. Additional measures include the establishment of a National Social Protection Committee in 2014 and the National Poverty Reduction Programme Committee in 2018, to facilitate multi-sectoral collaboration and partnerships through provision of policy advice and coordination, the approval in 2017 of an International Migration and Development Policy, which addresses a range of labour and social security issues relevant to migrant workers; and the approval of a revised National Policy for Senior Citizens as a Green Paper in 2018, which offers strategies for participation, social inclusion, active ageing and improved standards of living to older people and their families. *Noting that the Government does not provide information on measures taken to promote cooperatives, the Committee reiterates its request that the Government provide detailed information on measures taken to encourage and assist producers' and consumers' cooperatives (Article 4(e)). The Committee further requests the Government to provide detailed updated information, including disaggregated statistical data and copies or extracts of studies or legislative texts, on the impact of the measures taken by the Government to give effect to Article 2 of the Convention, in particular of the Vision 2030 Jamaica –National Development Plan. With respect to Article 3 of the Convention, the Committee requests the Government to indicate the measures taken to study the causes and effects of migratory movements which may cause disruption of family life and other traditional social units and to control those movements.*

*Part IV. Article 11. Remuneration of workers. Protection of wages.* The Committee once again recalls that, for some years, it has been requesting the Government to provide information on measures taken or envisaged to give effect to *Article 11* of the Convention, in particular *Article 11(8)*. The Government reiterates that it has not adopted legislation directly aiming to ensure the proper payment of all wages earned, as required by *Article 11(1)* of the Convention, but that section 11 of the Minimum Wage Act requires employers to maintain records demonstrating their compliance with minimum wage provisions. The Government refers to section 16(1) of the Employment (Termination and Redundancy Payments) Act, which requires employers to keep records in relation to each of their employees. The Committee notes that this Act relates to redundancy payments and not to wages, and does not give effect to the provisions of *Article 11*. With respect to compliance, the Government indicates that the Pay and Conditions of Employment Bureau (PCEB) of the Ministry of Labour and Social Security is mandated to carry out routine and random inspections in business establishments, and joint (inter-agency) inspections are also carried out. The Committee notes that public employers are required to maintain payroll registers for purposes of calculating monthly remuneration of employees (section 5.13.1.5 as regulated by the Financial Administration and Audit Act, Financial Instructions, Version 1, of 1 January 2017, governing payroll disbursements and allowances). The Committee notes that the Government has not provided information on the manner in which it is ensured that employers issue statements of wage payments to workers which reflect not only the minimum wage, but all wages earned by their employees. Nor has the Government provided information on the measures taken to give effect to *Article 11(8)*, by requiring workers to be informed of their wage rights and to prevent any unauthorized deductions from wages. ***The Committee therefore once again requests the Government to provide specific information in its next report on the measures taken to facilitate the supervision necessary to ensure the proper payment of all wages earned, and the keeping by employers of registers to ensure the issue to workers of statements of their wage payments (Article 11), as well as to provide information on the outcomes of inspections. The Committee also reiterates its request that the Government provide specific information on the policies, practices or any other measures adopted indicating, where appropriate, the relevant provisions of legislation and administrative regulations which ensure the proper payment of all wages earned, as provided under each of the subparagraphs of Article 11 of the Convention for both public and private sector employment.***

*Article 12. Advances on wages.* For a number of years, the Committee has been requesting the Government to supply information on measures taken or contemplated to regulate advances on wages, as required under *Article 12* of the Convention. The Government once again indicates that there is no legislation regulating advances on wages, except in the public service, where the Financial Administration and Audit Act, Financial Instructions, Version 1, of 1 January 2017 regulates advances on wages. ***The Committee requests the Government to indicate in its next report the measures taken or contemplated to regulate the advances on wages for workers in the private sector, in accordance with Article 12 of the Convention. Please also indicate the measures taken by the competent authority to make legally irrecoverable any advance in excess of the amount laid down by the competent authority and to prevent such an advance from being recovered by withholding amounts of pay due to workers at a later date.***

## Nicaragua

### **Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117) (ratification: 1981)**

#### **Follow-up to the Conclusions of the Committee on the Application of Standards (International Labour Conference, 108th Session, June 2019)**

The Committee notes the discussions in the Conference Committee on the Application of Standards, in June 2019, on the application of the Convention. The Conference Committee called on the Government to urgently: (i) ensure that labour market policies are carried out in consultation with the most representative, free and independent workers' and employers' organizations in order to help achieve the principles of the Convention, drawing on ILO technical assistance; (ii) ensure that migrant workers and their families are adequately protected against discrimination, and (iii) develop and implement sound and sustainable economic and labour market policies, in consultation with the most representative, free and independent workers' and employers' organizations. In this regard, the Conference Committee encouraged the Government to avail itself of ILO technical assistance and to provide further information on measures taken for consideration by the Committee of Experts at its next session.

*Parts I and II of the Convention. Improvement of standards of living.* In its previous comments, the Committee expressed deep concern at the serious situation in the country, stemming from the political and social crisis that began on 18 April 2018 and which had a serious impact on the population's living conditions. The Committee noted the information in the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) entitled, "Human rights violations and abuses in the context of protests in Nicaragua, 18 April–18 August 2018", expressing concern about human rights violations and abuses in the context of the protests in Nicaragua. The Committee noted that since the beginning of the crisis, a great number of individuals had lost their jobs, the number of persons living below the poverty line had increased, pro-Government groups illegally occupied private land and the right to health had been significantly affected. In this regard, the Committee requested the Government to provide information on the results achieved by the National Human Development Plan (PNDH 2012–2016), the Country Partnership Framework for Nicaragua for 2018–2022, and on all measures aimed at improving standards of living of the Nicaraguan population, particularly with regard to groups in

vulnerable situations, such as women, young people, people with disabilities, small-scale producers engaged in subsistence agriculture, and indigenous communities and communities of African descent. While noting that the damage caused to the population's living conditions was a consequence of the country's political and social crisis, the Committee requested the Government to take the necessary steps to ensure that those measures took account of workers' basic family needs. The Committee also requested the Government to supply information on all measures taken in that regard as well as their outcome. In that context, the Committee reminded the Government of the possibility of availing itself of ILO technical assistance.

The Committee notes the Government's indication that, as a result of the implementation of various programmes and social projects, significant progress has been made in increasing the population's well-being and reducing poverty and extreme poverty. However, the Government reports that in 2018, there was a 3.8 per cent contraction in a number of economic sectors as a result of conflict in the country over the past few months. The Committee also notes the information provided by the Government on programmes implemented for small producers and rural workers between 2014 and 2018. The Government refers, for example, to the implementation of the "Support Project for Adaptation to Change in Markets and the Effects of Climate Change", through which 14,273 coffee and cacao-producing families received training and technical support. Under the "Special Support Plan for Small-scale Producers", 205,979 producers benefited from the technical assistance and support were provided to men and women producers. The Government also indicates that, through collective bargaining, the minimum wage has been increased for 380,000 workers in the various economic sectors. With respect to access to healthcare for the Nicaraguan population in the country, the Government indicates that there are 1,520 health-care centres and 66 mobile clinics and that the number of health-care personnel increased from 5,556 to 6,318 doctors and 31,124 to 35,841 health workers. The Government adds that 752,052 workers are registered with the social security system. With regard to education, the Government refers to the development of the "2017-2021 Education Plan", the objective is to continue improving access to education (especially for members of the indigenous communities and those of African descent), as well as the quality of education and comprehensive training. Lastly, the Government reports the construction of 57,859 houses, with a view to ensuring the right to housing for 236,165 persons. The Committee notes, however, that the Government has still not provided information on the results achieved by the National Human Development Plan (PNDH 2012–2016) and the Country Partnership Framework for Nicaragua for 2018–2022. ***The Committee once again requests the Government to provide detailed information, including statistics disaggregated by sex and age, on the results achieved by the Country Partnership Framework for Nicaragua for 2018-2022, as well as all measures aiming to ensure an improvement in the living standards of the Nicaraguan population (Article 2), particularly with regard to groups in vulnerable situations, such as women, young people, people with disabilities, small-scale producers engaged in subsistence agriculture, and indigenous communities and communities of African descent. The Committee requests the Government to continue providing information on the steps taken to ensure that such measures take account of workers' basic family needs, such as food and its nutritive value, housing, clothing, medical care and education (Article 5(2)). It also requests the Government to continue providing detailed information on all measures taken in this regard and their outcome.***

*Part III. Migrant workers.* In its previous comments, the Committee requested the Government to provide information on the measures taken to ensure that the working conditions of migrant workers who are required to live away from their homes take account of their family needs. It also requested the Government to provide statistical data on the number of migrant workers required to live away from their homes. The Committee notes that, according to the information supplied by the Directorate-General for Migration and Foreign Nationals, the number of Nicaraguan nationals who have emigrated abroad in search of work, as well as foreign workers who have arrived in the country looking for work, is on the increase. In 2014, 2,641 Nicaraguans emigrated, while in 2018 the number was 336,965. There were 5,194 immigrant workers in Nicaragua in 2014, compared with 183,275 in 2018. The Committee also notes the copy of the agreement concluded between Costa Rica and Nicaragua in December 2007, seeking to regulate binational labour migration management procedures for seasonal workers. The agreement provides that the Government of Costa Rica shall guarantee Nicaraguan workers the same labour rights, pay and entitlements as those legally available to national workers, as well as housing adapted to the safety and health requirements of national legislation. As part of that agreement, the Government refers to the "specific collective recommendation on agricultural workers, approved on 1 September 2017 by the Ministry of Labour and Social Security (MTSS) of Costa Rica, authorizing 750 foreign workers to work for a specified period planting and harvesting melons in Costa Rica. ***The Committee requests the Government to continue providing up-to-date statistical information, disaggregated by sex and age, on the number of migrant workers required to live away from their homes.***

*Article 13. Voluntary forms of thrift.* In its previous comments, the Committee requested the Government to provide information on the measures taken to encourage wage earners and independent producers to practise the voluntary forms of thrift envisaged by the Convention. The Committee also requested the Government to indicate the measures adopted to protect them against usury, particularly measures aimed at women. The Committee notes the Government's indication that 524 cooperatives are listed in the National Registry of Cooperatives of the Ministry of the Family, Community, Cooperative and Associative Economy (MEFCCA). The Government adds that those cooperatives offer financial intermediation, both thrift and credit, for their 123,862 associates, of whom almost half (52,588) are women. ***The Committee requests the Government to continue providing detailed up-to-date information on the measures taken to encourage wage earners and independent producers to practise the voluntary forms of thrift envisaged by the Convention. It also requests the Government to provide specific detailed information on the measures adopted to protect them against usury and, in particular, to specify the measures taken with a view to reducing loan interest rates by regulating loan transactions, and***

by increasing borrowing facilities for appropriate purposes through cooperative credit organizations or through institutions under the control of the competent authority. The Committee finally requests the Government to continue providing detailed information on the measures adopted in this regard that are intended specifically for women.

## Paraguay

### **Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)** (ratification: 1969)

*Parts I and II of the Convention. Improvement of standards of living.* The Committee notes the information provided by the Government on the measures implemented with a view to improving the living standards of the population. The Government refers to the adoption in 2014 of the Paraguay National Development Plan 2030 (PND), which guides Government action in the short and medium term around three objectives: poverty reduction and social development; inclusive economic growth; and the integration of Paraguay into the world. In particular, the PND envisages the implementation of a series of measures to achieve equitable social development and increase the well-being of the population by improving the efficiency and transparency of public services (such as education and health), as well as access to housing and housing conditions. The PND identifies as priority population groups for the implementation of these measures those that are vulnerable, such as women, young persons, indigenous peoples, persons with disabilities and older persons. The Government reports the continued implementation of the Public Policy for Social Development 2010–20, the objectives of which include ensuring the access of the whole population to universal social goods and services which consolidate sustainable development, as well as reducing poverty and social exclusion. The Public Policy for Social Development provides that all citizens shall benefit from improved well-being, a high level of human development and greater equity in the distribution of income. The Committee refers to its observation on the application of the Employment Policy Convention, 1964 (No. 122), in which it notes the various social programmes implemented to improve the living conditions of poor and extremely poor families, such as the cash transfer programmes with co-responsibility *Tekopora* and *Abrazo*, the inclusive socio-economic support programme *Tenodera*, and the pilot project “Incubating Opportunities Family by Family”. The Government also reports the implementation of the assistance programme for fishers within the national territory, which provides subsidies for poor and vulnerable fishers’ families during the closed season for fishing. Moreover, on 19 September 2018, the social protection system known as *Vamos* was launched with the technical support of the European Union (EU) within the framework of the EUROsocial+ programme. The Government indicates that the social protection system coordinates and articulates the strategies of the various institutions with a view to guaranteeing access to social benefits for all citizens. The social protection system is based on three pillars: social assistance (non-contributory), socio-labour inclusion (labour inclusion and regulation policies) and social security (contributory). The Committee notes that, according to the report of 27 January 2017 of the United Nations Special Rapporteur on the right to food, over the past decade, the Paraguayan economy has grown by 5 per cent a year on average, which represents a higher level of growth than the majority of the neighbouring countries. During this period, there has also been an impressive reduction in poverty levels, which fell from 44 per cent in 2006 to 22 per cent in 2016. Nevertheless, the population living in extreme poverty, whose monthly per capita income does not cover the cost of a minimum food basket, amounts to approximately 687,000. Exclusion is greatest in rural areas, where extreme poverty rates are three times higher than in urban areas (A/HRC/34/48/Add.2, paragraphs 5 and 7). With reference to indigenous communities, the Committee notes that, in its concluding observations of 20 August 2019, the Human Rights Committee expressed concern at the high levels of poverty within these communities and the difficulties they face in access to education and health care, the slow progress made in registering and returning land and the consequent lack of comprehensive access to their lands and national resources (CCPR/C/PRY/CO/4, paragraph 44). ***The Committee requests the Government to provide detailed information, including statistics disaggregated by sex and age, on the results achieved by the Paraguay National Development Plan 2030, (PND), the Public Policy for Social Development 2010–20 and the social protection system, and on any programmes and measures intended to ensure the improvement of the standards of living of the population of Paraguay (Article 2), especially for groups in vulnerable situations, such as women, young people, persons with disabilities, older persons, small-scale producers engaged in subsistence agriculture and indigenous communities. While noting the high percentage of the population living in extreme poverty, especially in rural areas and among indigenous communities, the Committee requests the Government to take the necessary steps to ensure that such measures take into account the essential needs of workers’ families, such as food and its nutritive value, housing, clothing, medical care and education (Article 5(2)). It also requests the Government to provide information on any measures adopted in this respect and their outcome.***

*Part III. Migrant workers.* The Government reports the implementation of the project to strengthen the system for the administration of migration in Paraguay, with the technical support of the International Organization for Migration (IOM). Within the framework of this project, the National Migration Policy for the Republic of Paraguay was approved through Decree No. 4483/15 of 27 November 2015. Paragraph 62 of the National Migration Policy indicates that “immigrants and their family members who enter the country to stay temporarily or permanently shall be granted the same rights and constitutional and legal guarantees as nationals, including the right to decent work, social insurance, education and health, family reunion, the transmission and receipt of cash remittances in support of their families and access to justice and due process, within the framework of the corresponding laws.” In August 2016, a preliminary draft of the Migration Bill was submitted to the National Congress with the objective of restructuring, modernizing and adapting the administration

of migration in Paraguay based on the approach of promoting the human rights of migrants. The Government also refers to the implementation, in collaboration with the IOM, of the project to strengthen Government capacities to combat trafficking in persons, which envisages the adoption of a series of measures with a view to combating trafficking in persons in the country, including the training of public officials, the preparation of a manual of procedures and the development of a system for the certification of victims of trafficking in persons, as well as a diagnostic analysis of trafficking of women and girls in Paraguay. ***The Committee requests the Government to provide updated information on the situation with regard to the consideration of the preliminary draft of the Migration Bill and to provide a copy once it has been adopted. The Committee also requests the Government to provide detailed and updated information on the impact of the National Migration Policy of the Republic of Paraguay, and any measures adopted to ensure that the terms and conditions of employment of migrant workers, both nationals and non-nationals, living away from their homes, take account of their family needs. The Committee also requests the Government to provide statistical data, disaggregated by sex and age, on the number of national and non-national migrant workers living away from their homes.***

***Part IV. Remuneration of workers.*** The Committee notes that the Government refers to various provisions of the Labour Code, which regulate the arrangements and procedures to be followed for the payment of wages to workers, in accordance with *Articles 10 and 11* of the Convention. With regard to deductions from wages, the Government refers to section 240 of the Labour Code, which sets out the grounds on which a portion of the worker's wage can be deducted, withheld or repaid, such as advances on wages made by the employer and contributions to compulsory social insurance. The Government adds that it is planned to adopt a Bill to establish a limit on deductions from wages authorized for workers in the public and private sectors, which is currently before the Senate for approval. Finally, the Government refers to section 242 of the Labour Code, which establishes the maximum amount (30 per cent of the monthly remuneration of the worker) and the manner in which advances on wages are reimbursed, in accordance with *Article 12(1)* of the Convention. ***The Committee requests the Government to provide information on the measures adopted with a view to facilitating the necessary supervision to ensure the proper payment of all wages earned and that employers keep registers of wage payments with a view to specifying the situation with regard to the payment of the wages of workers. The Committee also requests the Government to provide updated information on the situation with regard to the Bill to establish a limit on deductions from wages authorized for workers in the public and private sectors, and to provide a copy once it has been adopted.***

***Article 13. Voluntary forms of thrift.*** ***The Committee requests the Government to provide detailed and updated information on the measures adopted to encourage wage earners and independent producers to engage in the forms of voluntary forms of thrift envisaged by the Convention. It also requests the Government to indicate the measures adopted to protect them from usury, and particularly to specify the measures adopted with a view to reducing rates of interest on loans by controlling the operations of money lenders and by increasing facilities for borrowing money for appropriate purposes through cooperative credit organizations or through institutions under the control of the competent authority.***

***Part V. Non-discrimination.*** The Government refers to Article 88 of the National Constitution and section 9 of the Labour Code, which prohibit discrimination between workers. Section 47 of the Labour Code provides that contract clauses shall be null and void which establish on grounds of age, sex or nationality a wage lower than the pay of other workers in the same enterprise for work of equal efficiency, the same type of work and the same hours ... . The Government reports the implementation of various measures to combat discrimination in all its forms. In this regard, the Government indicates that the PND envisages equality of opportunity for men and women as the transversal objective of all public policies implemented by the Government. The Government also refers to the implementation of the National Human Rights Plan, which includes a specific component on the "Transformation of structural inequalities for the enjoyment of human rights". However, the Committee notes that, in the concluding observations of the Human Rights Committee, it expressed concern at reports about the limited implementation of the National Human Rights Plan and insufficient resources for its implementation, and at the fact that the Plan was not revised to reflect the agreements and consensus reached with State institutions and civil society prior to its adoption. The Human Rights Committee also expressed concern at the lack of a comprehensive anti-discrimination legal framework and the persistent discrimination suffered by women, persons of African descent, indigenous peoples, persons with disabilities, sex workers, lesbian, gay, bisexual, transsexual, transgender and intersex persons, and persons with HIV, especially in the areas of education, health care and employment (CCPR/C/PRY/CO/4, paragraphs 8 and 14). With reference to indigenous peoples, the Government provides a copy of the report of 29 June 2018 of the Ministry of Justice on the measures adopted in the country under the Indigenous and Tribal Peoples Convention, 1989 (No. 169). However, the Committee observes that, in its concluding observations of 4 October 2016, the Committee on the Elimination of Racial Discrimination (CERD) expressed concern that Afro-Paraguayan women and indigenous women continue to face multiple forms of discrimination with regard to ... access to an adequate standard of living, education and work ... (CERD/C/PRY/CO/4-6, paragraph 41). ***The Committee requests the Government to provide detailed and updated information on the impact of the Paraguayan National Development Plan 2030 (PND) and the National Human Rights Plan on the elimination of discrimination in practice between workers in relation to the various matters enumerated in Article 14(1) of the Convention. The Committee also requests the Government to provide updated information on any other measures adopted or envisaged in this regard.***

***Part VI. Education and training.*** The Committee refers to its direct request on the application of Convention No. 122, in which it notes the various vocational training and skills development courses provided by the National

Vocational Training and Skills System (SINAFOCAL), in collaboration with workers' organizations. *The Committee refers to its comments on Convention No. 122, in which it requests the Government to provide updated statistical data, disaggregated by age and sex, on the number of persons, including indigenous women and girls and those in rural areas, who are participating in education and training programmes, and the impact of the programmes on their access to decent, productive and lasting employment.*

## Spain

### **Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)** (ratification: 1973)

The Committee notes the observations of the Trade Union Confederation of Workers' Commissions (CCOO) and the General Union of Workers (UGT), received on 2 and 7 August 2018, respectively. The Committee also notes the observations of the Spanish Confederation of Employers' Organizations (CEOE), attached to the Government's report. The Committee notes the Government's replies to these observations.

*Parts I and II of the Convention. Improvement of standards of living.* The Committee notes the detailed information provided by the Government on the steps taken to improve the employment levels of the entire population, especially those groups who have more difficulty integrating into the labour market, and thus improve standards of living. However, the Committee notes that most of this information refers to measures to promote employment and vocational training, which will be examined in its comments on the application of the Employment Policy Convention, 1964 (No. 122), and the Human Resources Development Convention, 1975 (No. 142). The Committee notes that, in its concluding observations of 25 April 2018, the United Nations Committee on Economic, Social and Cultural Rights (CESCR), noted with concern that, "for a country with the State party's level of development, the percentage of the population at risk of poverty and social exclusion is high, particularly among certain groups, such as young people, women, the least educated and migrants." (see E/C.12/ESP/CO/6, paragraph 33). The CESCR also expressed concern at the fact that this percentage is higher in certain autonomous communities and that children are most at risk of falling into poverty. In this context, the Committee notes that, in the framework of the "Europe 2020 Strategy", Spain made a commitment to reduce by between 1,400,000 and 1,500,000 (from 2009 to 2019) the number of persons at risk of poverty and social exclusion and the proportional rate of child poverty, according to the AROPE indicator, which measures the number of persons at risk of poverty and/or social exclusion. The Committee notes that, according to a report published by the European Anti-Poverty and Social Exclusion Network in 2019 entitled "Follow-up on the poverty and social exclusion indicator in Spain 2008–2018", the above-mentioned objective is still far from being reached. This report indicates, on the basis of data from the National Institute of Statistics' (INE) Survey of Living Conditions, that, in 2018, some 26.1 per cent of the Spanish population (12,188,288 persons) was at risk of poverty and social exclusion. The report also indicates that the AROPE rate varies considerably depending on various factors, such as age and sex. The Committee also notes that, according to the report, in 2018, one in three persons with disabilities was at risk of poverty or social exclusion. With regard to the child poverty rate, the report indicates that, in 2018, some 26.8 per cent were at risk of poverty and 7.7 per cent were living in extreme poverty. The report also indicates large disparities between regions, with the regions to the north of Madrid maintaining the lowest rates of poverty and/or social exclusion, while the southern regions have much higher rates (between four and 18 percentage points above the national average). Lastly, the Committee notes the UGT's indication that the social partners do not participate in the formulation and implementation of the measures adopted by the Government with a view to improving the living standards of certain population groups. *The Committee requests the Government to send detailed information on any measures adopted or envisaged to improve the standards of living of the Spanish population (Article 2), especially for vulnerable groups such as children, women, young persons, migrant workers, persons with disabilities, the poorly educated and older adults. In this regard, the Committee requests the Government to take the necessary steps to ensure that these measures take account of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education (Article 5(2)). The Committee also requests the Government to provide detailed and updated information (disaggregated by sex, age and autonomous community) on the outcomes of these measures. Furthermore, the Committee encourages the Government to conduct a study into the living conditions of independent workers and wage earners, in coordination with the representative organizations of employers and workers (Article 5(1)).*

*Public Indicator of Multiple Purpose Income (IPREM).* In its observations, the CCOO refers to the minimum amount of unemployment benefit, which is set at 80 per cent of the Public Indicator of Multiple Purpose Income (IPREM), established each year in the General Budget Act. In this respect, the CCOO reports that the IPREM has been repeatedly frozen in recent years, to the extent that it does not guarantee the maintenance of minimum standards of living. Specifically, the CCOO indicates that, from 2010 to 2018, the IPREM appreciated at a rate 6.3 percentage points lower than average inflation in Spain. The CCOO also indicates that, in 2018, the IPREM was €430 per month (€5,160 per year), which is below the threshold to be at risk of relative poverty (which was €8,522 per year in 2017). The CCOO reports that one of the reasons for the decrease in the value of the minimum unemployment benefit is the absence of a legal formula to calculate the IPREM that ensures the maintenance of purchasing power. In this respect, the Government indicates that, under section 2(2) of Royal Decree-Law No. 3/2004 of 25 June, the social partners are consulted regarding the amount of the IPREM before its approval. *Observing that, since its approval in 2004, the amount of the Public Indicator of Multiple*

*Purpose Income (IPREM) has remained stable despite the economic improvement in the country in recent years, the Committee encourages the Government to formulate a study, in collaboration with the social partners, regarding the amount of the IPREM, which must be set with a view to ensuring the maintenance of minimum standards of living for the beneficiaries of unemployment benefits (Article 5(1)). The Committee also requests the Government to provide a copy of the study once it is completed.*

*Part-time and fixed-term contract workers.* The Committee notes that the CCOO reports serious shortcomings in the legal system in relation to minimum income guarantees for part-time workers. The CCOO indicates that, according to data published by the INE, the use of part-time contracts for men increased from 4.9 per cent in 2009 to 7.3 per cent in 2017, while for women it increased from 22.4 per cent to 24.2 per cent. The CCOO also indicates that, in 2017, the proportion of men working part-time involuntarily was 75.7 per cent and of women was 57.7 per cent, while the European Union average was 47.0 per cent for men and 24.1 per cent for women. The CCOO reports that most part-time workers have short-term contracts with significantly reduced working hours, which do not guarantee sufficient income and have serious consequences for the social security coverage of these workers, in violation of the provisions of *Article 5* of the Convention. The CCOO alleges that, as a result, the percentage of the “working poor” in Spain is higher than the European average. Specifically, the CCOO indicates that the employed population at risk of relative poverty in Spain amounted to 12.3 per cent for woman and 13.7 per cent for men, while in the European Union these figures were 9.1 per cent and 10.1 per cent, respectively. The Committee also notes the CCOO’s allegations of the misuse of part-time contracts insofar as, in some cases, they are used with the principal objective of reducing business costs, mainly by reducing the wages received by workers and the social security costs associated with those wages. Furthermore, the CCOO indicates that, in 2015, the social security contribution rates for part-time fixed-term employment contracts were reduced, which helped to encourage their use, as it removed the burden borne by these contracts under the earlier legislation in comparison with other more stable forms of recruitment. In this context, the CCOO indicates that, between 2015 and 2016, the labour inspectorate conducted 20,039 labour inspections related to the misuse of part-time employment contracts, during which 3,025 violations were detected and 10,520 illegal part-time employment contracts were identified. In this respect, the CCOO indicates that, given the high numbers of part-time contracts, this action is not sufficient and points out the absence of an effective plan of action to repress the fraudulent use of part-time contracts. In its reply, the Government refers to several provisions of the legal system that aim to ensure that part-time workers have the same rights as full-time workers (such as section 12(4)(d) of the Workers’ Statute) and full-time contracts are converted to part-time contracts only with the consent of the worker (section 12(4)(e) of the Workers’ Statute). The Government reports the approval of the “Master Plan for Decent Work 2018–2020”, which includes a plan to combat fraud in short-term employment and a plan to combat the misuse of part-time employment. Lastly, the CCOO indicates that, before 2012, all workers without distinction had access to an unemployment benefit with a minimum value of 80 per cent of the IPREM. However, the CCOO alleges that, from 2012, the guaranteed minimum amount of these benefits for part-time workers was reduced in proportion to their hours worked, further reducing the income of these workers. ***Noting the large numbers of short-term and part-time workers, as well as their high poverty rates, the Committee requests the Government to adopt the necessary measures with a view to ensuring the maintenance of minimum standards of living for these workers. The Committee also requests the Government to send detailed and updated information on the impact of the measures adopted or envisaged to end the misuse of short-term and/or part-time contracts, including those implemented by the labour inspectorate as part of the plans to combat fraud in short-term employment and the misuse of part-time employment.***

*Migrant workers.* In its observations, the UGT reports that the living standards of foreign nationals were not included in the standards, plans and measures adopted by the Government between 2013 and 2018. The UGT refers to, inter alia, the failure to include this group in the measures implemented as part of the Spanish Employment Activation Strategy (EEAE) and the various annual employment policy plans (PAPE) adopted during the above-mentioned period. In this regard, the UGT indicates that, according to the INE Survey of Living Conditions, in 2017, the at-risk-of-poverty rate was 18 per cent among nationals, 39.2 per cent among foreign nationals from European Union member countries and 52.1 per cent among foreign nationals from non-European Union countries. In this regard, the Government indicates in its reply that foreign national workers who are in a regular situation and have a work permit can access the same programmes and measures as national workers. The Government also refers to the labour inspections carried out in the context of the “campaign on the discriminatory working conditions of migrant workers”, with a view to identifying possible discrimination against foreign national workers in enterprises. Lastly, the Committee notes that the UGT reiterates its concern regarding the impact on the application of *Article 2* of the Convention of the measures adopted by the Government since March 2012 on healthcare for the foreign national population. In its concluding observations of 25 April 2018, the CESCR expressed its concern at the regressive effect on the right to health of Royal Decree-Law No. 16/2012 of 20 April 2012 on urgent measures to guarantee the sustainability of the national health system, which limits the access of irregular migrants to health-care services and has led to a decrease in the quality of such services and to an increase in the disparities between the autonomous communities. The CESCR also expressed concern at the fact that no comprehensive impact assessment has been carried out with regard to this law and that the law is not considered to be temporary (see E/C.12/ESP/CO/6, paragraph 41). ***The Committee requests the Government to provide detailed and updated information on the measures adopted or envisaged with a view to improving migrant workers’ standards of living and their impact. In this respect, the Committee requests the Government to take the necessary steps to ensure that these measures take account of such essential family needs of the workers as food and its nutritive value, housing, clothing, medical care and education (Article 5(2)).***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 94** (*Guyana, Malaysia: Sarawak, Netherlands: Aruba, Netherlands: Caribbean Part of the Netherlands, Netherlands: Curaçao, Netherlands: Sint Maarten, Nigeria, North Macedonia, Saint Vincent and the Grenadines, Sierra Leone, Uganda*); **Convention No. 117** (*Bahamas, Plurinational State of Bolivia, Costa Rica, Ecuador, Ghana, Guatemala, Guinea, Kuwait, Madagascar, Malta, Republic of Moldova, Niger, Panama, Portugal, Senegal, Sudan, Syrian Arab Republic, Zambia*).

## Migrant workers

### Barbados

#### **Migration for Employment Convention (Revised), 1949 (No. 97)** (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 2020, 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 7 and 9 of the Convention. Free services and assistance and transfer of remittances.* In its previous comments, the Committee considered that the requirement for migrant workers participating in the Canada–Caribbean Seasonal Agricultural Workers Programme “the Farm Labour Programme” – to remit 25 per cent of their earnings to the Government directly from Canada as mandatory savings, 5 per cent of which was retained to pay the administrative costs of the Programme, could be contrary to the spirit of *Article 9* of the Convention. The Committee had also taken note of the concerns expressed by the Congress of Trade Unions and Staff Associations of Barbados that this requirement, together with the immediate deduction of certain costs such as airfares, pension and medical contributions from the workers' pay, created hardship for the workers, and the Programme needed to be reviewed. The Committee also drew the Government's attention to the fact that charging workers for purely administrative costs of recruitment, introduction and placement is prohibited under the Convention (General Survey of 1999 on migrant workers, paragraph 170).

The Committee notes the Government's indication that arrangements are made for a percentage of the earnings of the workers on overseas programmes to be remitted back to the country for them to access upon return and that workers travelling on the overseas programmes are required to sign an “agreement” (contract of employment) which allows for the deduction of 20 per cent of their wages to cover administration costs and national insurance contributions. According to the Government, upon arrival in Canada the workers are met by the Barbados liaison officers and in Barbados the employment services to migrants are rendered free of charge by the National Employment Bureau, which oversees the preparation and departure of workers. The Committee notes that the “Agreement for the Employment in Canada of Commonwealth Caribbean Seasonal Agricultural Workers – 2013” provides that the worker agrees that the employer shall remit to the government agent 25 per cent of the worker's wages for each payroll period and that “a specified percentage of the 25 per cent remittance to the government agent shall be retained by the Government to defray administrative costs associated with the delivery of the programme” (section IV, paragraphs 1 and 3). The worker also agrees to pay to the employer part of the transportation costs and the employer, on behalf of the worker, will advance the work permit fees and be reimbursed by the government agent (section VII, paragraphs 3–4). *The Committee requests the Government to clarify why it is considered necessary to require migrant workers under the Farm Labour Programme to remit 25 per cent of their wages to the liaison service for mandatory savings, including for administrative costs, and to indicate whether the liaison service has a role in the recruitment, introduction and placement of migrant workers and whether any of the administrative costs retained by the liaison service relate to recruitment, introduction or placement. The Committee also requests the Government to take the necessary measures to ensure that migrants for employment are permitted to transfer their earnings or such part of their earnings and savings as they desire, and to provide information on any steps taken, in cooperation with the workers' and employers' organizations, to review the impact of the Farm Labour Programme on the situation of Barbadian migrant workers.*

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.*

### Benin

#### **Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)** (ratification: 1980)

*Article 14(a) of the Convention. Restrictions concerning employment and geographical mobility within the country.* The Committee notes that, in reply to its request to promptly adopt measures to repeal Decree No. 77-45 of 4 March 1977 regulating the movement of foreign nationals and subjecting foreign workers to special authorization to leave their town of residence, the Government indicates once again that this Decree is no longer relevant and that, there is thus no restriction on the movement of foreign nationals in the national territory. The Government recognizes that this text has not been formally repealed and undertakes to complete the necessary formalities to ensure it is repealed as soon as possible. The Committee notes the fact that this decree has fallen into disuse but also observes that it has been raising this issue for over 20 years. *Recalling that, under Article 14(a) of the Convention, migrant workers who reside lawfully in the country must have the right to geographical mobility, the Committee once again urges the Government to take the necessary measures to formally repeal Decree No. 77-45 of 4 March 1977 regulating the movement of foreign nationals, 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.

## Cameroon

### ***Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)*** (ratification: 1978)

*Article 9(1) and (2) of the Convention. Rights arising out of past employment.* In its previous comments, the Committee asked the Government to clarify how migrant workers, whose employment contracts are null and void under section 27 of the Labour Code (as a result of not bearing the official stamp of the Ministry of Labour), can assert their rights to pay, social security and other benefits. The Committee notes that the Government indicates once again that the workers concerned can have recourse to the labour inspectorate but states that it does not have any statistical data in this area. It recalls that where the contract of employment of the migrant worker in an irregular situation is null and void, it can result in the migrant worker being unable to ascertain any rights arising out of past employment because of the lack of a contractual basis on which to make a claim (2016 General Survey, *Promoting fair migration*, paragraph 304). ***The Committee once again requests the Government to take steps to ensure that migrant workers whose employment contracts have been declared null and void under section 27 of the Labour Code can assert their rights under the same conditions as other migrant workers. In particular, it requests the Government to take steps to ensure that the migrant workers concerned can submit claims not only with the labour inspectorate but also with a court that has competence in social matters.*** As regards social security rights, the Committee notes that the Government refers to the conclusion of reciprocity agreements with other member States. ***Recalling that the reciprocity principle does not apply in the context of the application of Article 9 (2016 General Survey, paragraph 312), the Committee urges the Government to take steps to ensure that migrant workers can be affiliated to social security without any condition of reciprocity. In this regard, it also requests the Government to indicate whether the social security rights of migrant workers can be lost as a result of illegal residence.***

*Article 10. Exercise of trade union rights.* In its previous comments, the Committee noted that section 10(2) of the Labour Code provided that foreigners needed to have been resident in the country for at least five years before being permitted to establish a trade union. It asked the Government to take steps to ensure that the trade union rights of foreign workers would be guaranteed on an equal footing with nationals. ***Noting that the Government does not supply any information on this matter, the Committee once again requests the Government to take measures to this end.***

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

## Cyprus

### ***Migration for Employment Convention (Revised), 1949 (No. 97)*** (ratification: 1960)

### ***Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)*** (ratification: 1977)

In order to provide a comprehensive view of certain issues relating to the application of the ratified Conventions on migrant workers, the Committee considers it appropriate to examine Conventions Nos 97 (migration for employment) and 143 (migrant workers) together.

*Article 6 of Convention No. 97 and Articles 10 and 12 of Convention No. 143. Equality of opportunity and treatment.* The Committee previously noted the adoption of new legislation to guarantee equality of treatment between national and migrant workers. It notes the Government's indication, in its report, that the social security scheme covers every person gainfully occupied and does not make any distinction between nationals and non-nationals. Furthermore pensions paid by the social security scheme are exported to the beneficiaries who reside abroad without any restrictions. Referring to its previous comments, the Committee notes that the Government did not provide any information on the nature and impact of measures taken to implement the Action Plan for the Integration of Immigrants who are Legally Residing in Cyprus (2010–2012) and the Strategy on the Employment of Foreign Workers of 2007. While noting that such programmes do not seem to have been extended, the Committee refers to its 2019 observation on the application of both the Equal Remuneration Convention, 1951 (No.100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), where it notes that several United Nations (UN) treaty bodies expressed concern about the discrimination experienced by migrant workers, inter alia, in accessing employment, as well as the increasing discriminatory attitudes and racial stereotypes relating to persons of foreign origin. Recalling that it previously noted the precarious situation and vulnerability of migrant domestic workers, the majority of whom are women, as well as the absence of a monitoring system of their working conditions, the Committee notes that migrant domestic workers are still limited to two changes of employer over a six-year period and that change of sector is only possible with the approval of the Minister of the Interior. It notes that, in their 2018 and 2017 concluding observations respectively, the UN Committee on the Elimination of Discrimination against Women (CEDAW) and the UN Committee on the Elimination of Racial Discrimination (CERD) remained concerned about: (i) the persistent exploitation faced by migrant domestic workers and the difficulties they encounter in changing employers; (ii) the obstacles impeding access to justice for women migrant domestic workers, including the fear of detention and deportation while legal proceedings are pending; as well as (iii) the lack of regular labour inspections to monitor the working conditions and employment contracts of women migrant domestic workers (CEDAW/C/CYP/CO/8, 25 July 2018, paragraph 38, and

CERD/C/CYP/CO/23-24, 2 June 2017, paragraph 22). In this regard, the Committee notes that, in the report it made in the context of the Universal Periodic Review (UPR), the Government indicated that the ratification of the Domestic Workers Convention, 2011 (No. 189), was under consideration (A/HRC/WG.6/32/CYP/1, 13 November 2018, paragraph 8). The Committee further notes that, in April 2019, the Human Rights Council, in the context of the UPR, recommended that the Government take concrete actions to strengthen the capacity of labour inspectors and the police to improve oversight of the working conditions of domestic workers and prevent them from labour exploitation (A/HRC/41/15, 5 April 2019, paragraph 139). Noting from Eurostat that, in 2018, the highest number of first-time asylum seeker applicants relative to the population was recorded in Cyprus, where their number rose by more than 70 per cent, the Committee notes that several UN treaty bodies expressed specific concern at the differential treatment and the very limited range of employment opportunities of asylum seekers, who are allowed to work only in certain sectors, mostly in remote areas without adequate transport or accommodation provided, and receive some welfare benefits in the form of vouchers. They called on the Government to guarantee asylum seekers equal labour rights and equal rights to welfare benefits (CEDAW/C/CYP/CO/8, 25 July 2018, paragraph 36; CERD/C/CYP/CO/23-24, 2 June 2017, paragraphs 17 and 20; and E/C.12/CYP/CO/6, 28 October 2016, paragraphs 15 and 16). In that regard, the Committee notes that, in 2016, the Ombudsman highlighted the harsh situation facing young African women seeking asylum, whose welfare grants were interrupted when they refused to take up jobs in agriculture or livestock farms, where they would have to reside on the farm, possibly in the same accommodation with men and without childcare facilities while being pregnant or with infants. While the report of the Ombudsman concluded that the current policy framework leads to indirect discrimination on multiple grounds, the policy of forcing asylum seekers to accept the worst jobs in the labour market persists in spite of the Ombudsman's recommendations (European Commission, Country report on non-discrimination, Cyprus, 2018, page 74). ***Referring to its 2019 comments on the application of the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Committee urges the Government to strengthen its efforts to ensure equality of opportunity and treatment for migrant workers, both European Union citizens and third-country nationals, and more particularly migrant domestic workers, by: (i) enhancing and expanding their access to employment opportunities, including by removing the restrictions imposed on domestic workers wishing to change employers; (ii) ensuring regular labour inspections of workplaces, mainly in sectors where migrant workers are most represented, such as domestic work and agriculture; (iii) raising public awareness of the relevant legislative provisions, the procedures and remedies available; as well as (iv) enhancing migrant workers' access to justice without fear of detention or deportation, both while legal proceedings are pending and also at earlier investigative stages. It asks the Government to provide information on any proactive measures undertaken – including in the framework of any plan, strategy or policy adopted since the Action Plan for the Integration of Immigrants who are Legally Residing in Cyprus which ended in 2012 – to shape the national equality policy for foreign workers and on the involvement of workers' and employers' organizations in this context. The Committee asks the Government to provide information on the number and nature of cases or complaints of unequal treatment of migrant workers that have been detected or dealt with by the labour inspectors, the Ombudsman, the courts or any other competent authorities, concerning in particular terms and conditions of work of migrant workers, including remuneration, social security, and accommodation as referred to in Article 6(1)(a) and (b) of Convention No. 97.***

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

## New Zealand

### ***Migration for Employment Convention (Revised), 1949 (No. 97)*** ***(ratification: 1950)***

The Committee notes the observations of the New Zealand Council of Trade Unions (NZCTU) and of Business New Zealand (Business NZ) communicated with the Government's report, on 4 September 2017, as well as the Government's reply thereto.

*Article 6(1)(a)(i) of the Convention. Equality of treatment with respect to conditions of work.* In its previous comment, noting the situation regarding working conditions and unpaid wages of migrant workers in horticulture and viticulture, as well as in food and other services, and the concerns relating to the conditions and unequal treatment of international students in the labour market, the Committee requested the Government, in cooperation with employers' and workers' organizations to: (1) examine the benefits of extending the Recognized Seasonal Employment (RSE) scheme to the dairy and food sectors, and provide information on the results achieved; and (2) indicate the outcome of, and any follow-up given to, the operational response and policy review relating to migrant students in the labour market, and to provide information on any of the measures to improve the conditions of work of migrant workers in horticulture, viticulture, food and hospitality, and other services. As regard the RSE scheme, the Committee notes that, in its report, the Government indicates that the Ministry of Business, Innovation and Employment (MBIE) has not explored extending the RSE scheme to the dairy and food sectors, or other occupational sectors as suggested. In New Zealand, most dairy sector jobs are permanent and this does not align with the seasonal nature of the RSE scheme. Any other preferential work programmes would need to be consistent with the "New Zealanders first" approach and would most likely not be an "extension" of RSE, but would make use of existing work visa settings. Concerning the measures taken to improve the conditions of work of

migrant RSE workers in horticulture, viticulture, food and hospitality, and other services, the Government indicates that it has taken measures, through the formulation of two complementary wrap around programmes: the Strengthening Pacific Partnerships (SPP) Project, and the RSE Worker Training Programme (Vakameasina), which provide inter alia for training to RSE workers with the aim of improving English-language, numeracy, financial and computer literacy and health and life skills during their time in New Zealand; publication of hospitality sector guides for workers (information about minimum employment entitlements, including minimum wage, leave, health and safety, list of employment services) and their employers (employers' responsibilities to ensure that migrant workers understand their entitlements and are employed lawfully), developed in consultation with WorkSafe, the labour inspectorate and hospitality industry groups and unions. The Committee notes the observations made by BusinessNZ that it is important to highlight that most employers do not exploit migrant workers and that, whether working lawfully or unlawfully in New Zealand, migrant workers have long had the protection of the country's employment laws. The Committee notes, from the statistics provided by the Government, that between 2012 and 2017, out of the 1,246 investigations involving migrant workers, where breaches of employment standards were identified, 695 or more than 50 per cent concerned the dairy, horticulture, viticulture and hospitality sectors. ***The Committee requests the Government to continue its efforts to improve the working situation of migrant workers in the horticulture, viticulture, food and hospitality industries and to continue to provide detailed and up-to-date statistics, disaggregated by sex, in order to assess progress made over time.***

*Migrant students involved in the labour market.* In its observation, NZCTU recalls that student visa holders are eligible, under the terms of their visa, to undertake up to 20 hours per week of paid employment and indicates that, in some cases, student visas are being promoted by offshore migration agents as a pathway to temporary work in New Zealand. Section 11 of the Immigration Advisers Licensing Act 2007 provides an exemption from the general licensing requirement for persons who provide immigration advice offshore; and advice only in respect of applications made under the Immigration Act 2009 for a temporary entry class visa – temporary visa – student visa. NZCTU states that there is evidence that this exemption from licensing is being exploited by unscrupulous migration agents, and a minority of education providers, to provide misleading advice and to facilitate exploitation in employment of migrants on student visas and recommends that this exemption for providing advice on applications for student visas be removed. The Committee notes also the observations made by BusinessNZ that, in many instances where exploitation occurs, both in relation to migrant students in the labour market (and migrant workers more broadly), the perpetrator is a migrant employer from the worker's own country. As regards misleading advice provided to migrant students by offshore agents, the Government declares that it has considered a range of options to improve the quality of advice to students from offshore agents, including removing the licensing exemption for advice on student visas provided offshore, as suggested by NZCTU. However, a decision was taken to allow the exemption to remain, as changes to the provision of immigration advice to students were being implemented to improve the quality of advice. The Government has sought to address this issue through changes to the Education (Pastoral Care of International Students) Code of Practice (the Code) which makes education providers fully accountable for the outcomes of their agents. The New Zealand Qualifications Authority (NZQA) has new powers to take actions against those providers who use poor performing agents. The effectiveness of these changes to the Code has been supported by improving the information on agent performance available to providers. As regards international students, the Committee notes that the Government recognizes that some populations may be at greater risk of being exploited in the New Zealand labour market and that international students may be particularly vulnerable as they are often young, without existing contacts in New Zealand and may agree to work under substandard terms and conditions, due to a lack of awareness of New Zealand's minimum employment standards or fear to report employers if they are working unlawfully. In addition, they may have financial and family pressures from their home country and face language and cultural barriers, including finding acceptable employment. These factors combined with limited work skills and experience, may cause them to accept any work conditions they are offered. The Government is taking steps to address this vulnerability by enforcing employers' compliance with minimum employment standards but also by developing an: (i) International Education Strategy, a cross-agency strategy involving the Ministry of Education (MoE), Education New Zealand (ENZ), MBIE (including ImmigrationNZ), the New Zealand Qualifications Authority (NZQA), the Tertiary Education Commission (TEC) and other agencies; and (ii) an International Student Wellbeing Strategy which provides an outcomes framework for government agencies focused on ensuring international students are welcome, safe and well, enjoy a high quality education and are valued for their contribution to New Zealand. The Committee notes that, in February/July 2016, ImmigrationNZ, ENZ, Auckland Tourism Events and Economic Development (ATEED) ran a pilot programme "Project Skills" to improve work-readiness for international students. ***The Committee encourages the Government to continue taking measures to address the specific vulnerability of migrant students involved in the labour market, and to monitor and assess regularly the results achieved with a view to adjusting the measures taken or envisaged, if needed.***

The Committee is raising other points 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. 97** (Barbados, Belize, Cameroon, China: Hong Kong Special Administrative Region, Cyprus, Dominica, France, Germany, Grenada, Guatemala, Guyana, Jamaica, Netherlands, New Zealand, Portugal, Slovenia, Tajikistan, United Republic of

*Tanzania: Zanzibar, Trinidad and Tobago, United Kingdom, United Kingdom: Guernsey); Convention No. 143 (Benin, Cameroon, Cyprus, Guinea, Portugal, Slovenia, Uganda).*

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 97** (*United Kingdom: Isle of Man*).



## Seafarers

### 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 2020, 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 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. 22** (Colombia, Cuba, Egypt, France: French Polynesia, Iraq); **Convention No. 23** (Colombia, Iraq); **Convention No. 55** (Egypt); **Convention No. 56** (Egypt); **Convention No. 68** (Egypt, Equatorial Guinea, Guinea-Bissau); **Convention No. 69** (Egypt, France: French Polynesia, Guinea-Bissau); **Convention No. 71** (Djibouti); **Convention No. 92** (Egypt, Equatorial Guinea, Iraq, Republic of Moldova); **Convention No. 108** (Cameroon, Canada, Cuba, Denmark: Faeroe Islands, Guinea-Bissau, Saint Lucia, Saint Vincent and the Grenadines, Turkey); **Convention No. 133** (Republic of Moldova); **Convention No. 134** (Costa Rica, Egypt, France: French Southern and Antarctic Territories); **Convention No. 146** (Cameroon, Iraq); **Convention No. 147** (Costa Rica, Egypt, Iraq); **Convention No. 166** (Egypt, Guyana); **Convention No. 185** (Azerbaijan, Bangladesh, Bosnia and Herzegovina, Brazil, Congo, France, Georgia, India, Indonesia, Kazakhstan, Republic of Korea, Luxembourg, Marshall Islands, Pakistan, Philippines, Russian Federation, Spain, Tunisia, Turkmenistan); **Convention No. 186** (Algeria, Bahamas, Barbados, Belgium, Congo, Cyprus, Denmark, Denmark: Faeroe Islands, Fiji, Finland, France, Gabon, Germany, Italy, Luxembourg, Republic of Maldives, Morocco, Netherlands, Saint Kitts and Nevis, Singapore, Spain, Sweden).

The Committee noted the information supplied by the following State in answer to a direct request with regard to: **Convention No. 108** (Estonia).



## Fishers

### 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 report has not been received. It is therefore bound to repeat its previous comments.

The Committee notes that in its reports sent on the application of a number of fishing Conventions the Government indicates that the Liberian Maritime Law, RLM 107 (hereinafter the "Maritime Law") and the Liberian Maritime Regulations, RLM-108 (hereinafter the "Regulations") were amended in 2013 addressing the Committee's previous comments on the application of the Conventions, without providing any further information. **Recalling that for more than 20 years the Government has been requested to provide information on the applicability of existing legislation to fishers and noting that it is not clear from the Government's response whether there are adequate provisions in the amended texts to cover fishers, the Committee requests the Government once again to clarify this issue.**

In order to provide a comprehensive view of the issues to be addressed in relation to the application of the fishing Conventions, the Committee considers it appropriate to examine them in a single comment, as follows.

*Minimum Age (Fishermen) Convention, 1959 (No. 112)*

*Article 1 of the Convention. Scope of application. Minimum age.* The Committee notes that section 326(2) of the Maritime Law states that "persons under the age of 16 shall not be employed or work on Liberian vessels registered under this Title, except on vessels upon which only members of the same family are employed, school ships or training ships". The Committee recalls that according to *Article 2* of the Convention, children under the age of 15 years shall not be employed or work on fishing vessels. The Committee also recalls that the exclusion of vessels upon which only members of the same family are employed is not provided for under the Convention. The Committee further notes that according to section 290 of the Maritime Law, its Chapter 10 – which deals with merchant seamen and minimum age – only applies to persons engaged on board vessels of at least 75 net tons. Moreover, section 326 of the same chapter, fixing the minimum age at sea, only applies to vessels registered under the Maritime Law. In this connection, section 51 limits the registration procedure to specific vessels, namely: (a) vessels of at least 20 net tons, owned by a citizen or national of Liberia and engaged solely in coastwise trade between ports of the country or between those of Liberia and other West African countries; and (b) seagoing vessels of more than 500 net tons engaged in foreign trade, owned by a citizen or national of Liberia. The Committee recalls that pursuant to *Article 1* of the Convention, the term "fishing vessel" includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters, with the only exception of fishing in ports and harbours or in estuaries of rivers, or to individuals fishing for sport or recreation. **The Committee requests the Government to clarify whether Chapter 10 of the Maritime Law applies to fishers. If that is the case, recalling that the Convention applies to all fishing vessels irrespective of tonnage or of the fact that only members of the same family are employed, the Committee requests the Government to adopt the necessary measures without delay in order to give full effect to the Convention. If that is not the case, the Committee requests the Government to indicate the national provisions giving effect to the requirements of the Convention.**

*Medical Examination (Fishermen) Convention, 1959 (No. 113)*

*Application of the Convention.* The Committee had previously requested the Government to provide clarifications on the applicable legislation to fishers with regard to medical certification. The Committee had noted the information provided by the Government that existing legislation only applied to fishing vessels of 500 tons or more. Recalling that the Convention applies to all fishing vessels irrespective of tonnage, the Committee had requested the Government to adopt the necessary measures to ensure that fishers employed on board fishing vessels of less than 500 tons are subject to the same medical certification requirements in accordance with the provision of the Convention. The Committee **regrets** to note that the Government has not provided a reply to its previous observation. **The Committee therefore once again requests the Government to adopt without delay the necessary measures to give full effect to the provisions of the Convention.**

*Fishermen's Articles of Agreement Convention, 1959 (No. 114)*

*Application of the Convention.* In its previous comments, the Committee had requested the Government to explain how effect is given to the provisions of the Convention and to provide clarifications on the application of the existing legislation to fishing vessels. The Committee **regrets** to note that the Government provides no information in this regard. **The Committee therefore once again requests the Government to adopt the necessary measures without delay to give full effect to the provisions of the Convention.**

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

## Peru

**Minimum Age (Fishermen) Convention, 1959 (No. 112) (ratification: 1962)**

**Medical Examination (Fishermen) Convention, 1959 (No. 113)**  
(ratification: 1962)

**Fishermen's Articles of Agreement Convention, 1959 (No. 114)**  
(ratification: 1962)

The Committee notes the reports provided on the application of Conventions Nos 112, 113 and 114. The Committee also notes the information provided by the Government that the Work in Fishing Convention, 2007 (No. 188), is in the process of being submitted to the competent authorities. **The Committee requests the Government to provide information on any developments relating to the possible ratification of Convention No. 188.**

The Committee notes that the Government refers to the establishment of a Multi-sectoral Commission which prepared a report on work in the fishing sector. The report addresses various subjects, including the revision of Presidential Decree No. 009-76-TR, which regulates the employment contracts of anchovy fishers on small vessels and determines the labour regime of fishers. **The Committee requests the Government to provide information on any action taken to follow-up on the report.**

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 in a single comment.

*Minimum Age (Fishermen) Convention, 1959 (No. 112). Article 2 of the Convention. Minimum age.* The Committee previously requested the Government to specify the applicable national legislation respecting the minimum age for work in fishing. While noting the information provided by the Government, the Committee notes that the legislation that is currently in force does not contain a provision setting in general the minimum age of 15 years for artisanal fishing in accordance with *Article 2* of the Convention. The Committee observes in this regard that, according to the information provided by the Government, the proposed new Code for Children and Young Persons, prepared in 2011, which raises the general minimum age for admission to work or employment from 14 to 15 years, is still in the process of being examined by the State. **The Committee requests the Government to take the necessary measures to bring the legislation into full conformity with this provision of the Convention.**

*Medical Examination (Fishermen) Convention, 1959 (No. 113). Article 3 of the Convention. Consultation with organizations of fishing boat owners and fishers.* The Committee notes Departmental Decision No. 0745-2018-MGP/DGCG, of 5 July 2018, approving the updating of the rules for the medical examination of seafarers, fishers, personnel on recreational vessels and *bahía* personnel. The Committee recalls that, in accordance with *Article 3(1)* of the Convention, the competent authority shall, after consultation with the organizations of fishing boat owners and fishers concerned, where such organizations exist, prescribe the nature of the medical examination to be made and the particulars to be included in the medical certificate. **The Committee requests the Government to indicate whether tripartite consultations were held prior to the adoption of the updated rules.**

*Article 4(1). Period of validity of medical certificates of young fishers.* The Committee previously requested the Government to take the necessary measures to ensure that the medical certificate of young fishers has a maximum period of validity of one year, in accordance with the requirements of the Convention. The Committee notes in this respect the Government's indication that a process is being undertaken of updating the existing rules, which includes the issue of the period of validity of the medical examination of young persons. **The Committee requests the Government to take without delay the necessary measures to give effect to Article 4(1) of the Convention, which establishes a period of validity of one year for the medical certificates of young fishers.**

*Article 5. Examination by an independent medical referee.* The Committee previously requested the Government to take the necessary measures rapidly to ensure that a person who, after examination, has been refused a certificate may apply for a further examination by an independent medical referee, in accordance with *Article 5* of the Convention. The Committee **regrets** to note that the Government has not provided information on the adoption of the requested measures. **The Committee therefore once again requests the Government to adopt without further ado the necessary measures to give effect to this requirement of the Convention.**

*Fishermen's Articles of Agreement Convention, 1959 (No. 114). Article 3 of the Convention. Written articles of agreement.* The Committee previously requested the Government to take the necessary measures without delay to ensure that each fisher has written articles of agreement, signed both by the owner of the fishing vessel or his authorized representative and by the fisher, in accordance with the requirements of *Article 3*. The Committee **regrets** to note that, according to the information provided by the Government, no progress has been made in this respect. **The Committee once again urges the Government to take the necessary measures without delay to give full effect to the provisions of Article 3 of the Convention.**

## Sierra Leone

### **Fishermen's Competency Certificates Convention, 1966 (No. 125)** (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 2020, 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 3–15 of the Convention. Certificates of competency.* The Committee has been commenting for a number of years on the absence of laws and regulations giving effect to the Convention. *The Committee asks the Government to provide detailed information on any concrete progress made in respect of the adoption of national laws implementing the Convention.* The Committee understands that the Office remains ready to offer expert advice and to respond favourably to any specific request for technical assistance in this regard. *Finally, the Committee requests the Government to supply up-to-date information concerning the fishing industry, including statistics on the composition and capacity of the country's fishing fleet and the approximate number of fishers gainfully employed in the sector.*

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

## Spain

### **Medical Examination (Fishermen) Convention, 1959 (No. 113)** (ratification: 1961)

### **Fishermen's Articles of Agreement Convention, 1959 (No. 114)** (ratification: 1961)

### **Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)** (ratification: 1968)

The Committee notes the Government's reports on the application of Conventions Nos 113, 114 and 126 relating to the fishing sector. The Committee also notes the observations of the General Union of Workers (UGT) and of the Trade Union Confederation of Workers' Commissions (CCOO), received on 22 and 31 August 2016, respectively, as well as the Government's reply to those observations. In order to provide an overview of matters arising in relation to the application of the Conventions on the fishing sector, the Committee considers it appropriate to examine them in a single comment, as follows.

The Committee notes with *interest* the measures that the Government plans to take in order to transpose Council Directive (EU) 2017/159, of 19 December 2016, implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche). *The Committee requests the Government to provide information on any measures or legal provisions adopted within this framework that have an impact on the application of the ILO Conventions on the fishing sector.*

#### *Medical Examination (Fishermen) Convention, 1959 (No. 113)*

*Article 2 of the Convention. Medical certificate for fishers.* The Committee notes that the CCOO refers to the need for medical staff to have access to job evaluation reports in relation to medical examinations so that they are fully aware of the occupational health risks workers face and have more precise information at their disposal when conducting such examinations. In this regard, the Committee notes the Government's indication that the concerns raised by CCOO will be taken into account during the development of the regulations of Act No. 47/2015 on social protection for workers in the maritime fishing sector. *The Committee requests the Government to provide information on any developments in this area to ensure that doctors who grant medical certificates have all the necessary information at their disposal to discharge fully the functions entrusted to them by the Convention.*

*Article 5 of the Convention. Independent examinations by a medical referee.* The Committee notes the UGT's indication that, in accordance with section 10 of Royal Decree No. 1696/2007, regulating pre-embarkation maritime medical examinations, persons denied a certificate only have one administrative recourse, which is determined by the Director-General of the Social Marine Institute, only taking into consideration reports by the doctor who refused to grant the certificate. The Committee notes the Government's indication that, in the context of the regulations that are being drafted under Act No. 47/2015, a draft text is being prepared which includes the possibility for anyone who disagrees with the result of a medical examination to request another assessment by a different maritime health practitioner. *The Committee requests the Government to provide information on the developments of the draft text or any other measure taken to ensure that anyone denied a medical certificate is able to request another examination by one or more medical referees.*

### *Fishermen's Articles of Agreement Convention, 1959 (No. 114)*

*Articles 3 to 11 of the Convention. Fishers' articles of agreement.* In its previous comments, the Committee requested the Government to take the necessary measures, without delay, to ensure the application of the provisions of the Convention relating to the obligation to conclude fishers' articles of agreement in writing (*Article 3*), the particulars that must be contained in the agreements (*Article 6*), the possibility for the fisher to obtain information on board about the conditions of employment (*Article 8*) and the need for national legislation, collective or individual agreements to determine the circumstances in which the fisher may demand his immediate discharge (*Article 11*). The Committee notes with *interest* the draft bill of February 2019, seeking to revise the amended text of the Workers' Charter, approved by Royal Legislative Decree No. 2/2015 of 23 October 2015, on work in fishing. Prepared within the framework of the transposition of the European Union Directive, the draft bill seeks to amend section 8(2) of the amended text of the Workers' Charter in order to require, in all cases, employment contracts for fishers in writing. The Committee also notes with *interest* the draft Royal Decree establishing working conditions in fishing, of September 2019, also prepared within the framework of the transposition of the Directive. This draft bill regulates, in a detailed manner, the content of fishers' articles of agreement. ***The Committee requests the Government to provide information on the progress made on the draft bill and draft Royal Decree.***

### *Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)*

*Article 3 of the Convention. Applicable legislation.* In its previous comments, the Committee requested the Government to provide information on any new legislation adopted in order to give effect to *Article 3* which establishes the obligation for each Member to maintain in force legislation that ensures the application of the provisions of Parts II (Planning and control of crew accommodation) III (Crew accommodation requirements) and IV (Application to existing ships) of the Convention. The Committee notes that the draft Royal Decree of September 2019 establishing working conditions in fishing regulates certain aspects of accommodation on board fishing vessels and establishes minimum safety and health requirements applicable to the accommodation. ***The Committee requests the Government to provide information on the progress made on the draft Royal Decree of September 2019.***

Finally, the Committee notes that the CCOO in its observations welcomes the so-called SEGUMAR campaigns for the prevention of occupational hazards in fishing conducted by the Ministry of Development, the Ministry of Labour and Immigration and the Ministry of Environment and Rural and Marine Affairs, as well as detailed information provided by the Government on those campaigns.

## Trinidad and Tobago

### ***Fishermen's Competency Certificates Convention, 1966 (No. 125)*** (*ratification: 1972*)

*Implementing legislation on fishers' competency certificates.* The Committee had noted in its previous comment the absence of laws and regulations giving effect to the requirements of the Convention and had requested the Government to provide a copy of the Safety of Fishing Vessel Regulations which was under preparation. The Committee *regrets* to note the Government's indication in its report that the regulations governing all aspects of fishing vessel operations, including fishers' certificates of competency, are still being developed. ***The Committee therefore urges once again the Government to adopt the necessary measures without delay to regulate fishers' competency certificates.***

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 112** (*Australia, Mauritania*); **Convention No. 113** (*Costa Rica, Cuba*); **Convention No. 114** (*Costa Rica, Cyprus, Ecuador*); **Convention No. 125** (*France, France: New Caledonia, Senegal, Syrian Arab Republic*); **Convention No. 126** (*Montenegro, Sierra Leone, Ukraine*); **Convention No. 188** (*Bosnia and Herzegovina, Estonia, France, Lithuania, Morocco, Norway*).

## Dockworkers

### Algeria

#### **Protection against Accidents (Dockers) Convention (Revised), 1932 (No. 32)** (ratification: 1962)

*Articles 12, 13 and 15 of the Convention. Specific legislation on the protection of dockworkers against accidents.* The Committee recalls that its comments for more than 30 years have addressed the need for the Government to adopt a legislative or regulatory text giving full effect to *Articles 12, 13 and 15* of the Convention. In this regard, the Government has made reference since 1992 to the possibility of adopting a text specifically covering dock work pursuant to Act No. 88-07 of 26 January 1988 on occupational health, safety and medicine, section 45(2) of which provides that specific requirements relating to certain sectors and certain work arrangements shall be determined by regulation.

In its previous comments, the Committee indicated that the existence of a list of jobs determined by collective agreements, including jobs that involve handling, does not meet the requirements of the Convention. It also observed that the various executive decrees adopted pursuant to Act No. 88-07 successively mentioned by the Government were broad in scope and had no direct impact on the application of the Convention.

The Committee notes that in its report of 2018, the Government refers, in relation to the implementation of the Articles of the Convention, to Executive Decree No. 91-05 of 19 January 1991 on the general protection requirements applicable with regard to occupational health and safety and, also, to Executive Decree No. 93-120 of 15 May 1993 on the organization of occupational medicine. While the Committee recognizes that compliance with these decrees contributes to the implementation of the Convention, it remains of the opinion that the full application of the Convention requires the adoption of a specific text on dock work to prevent occupational hazards.

The Committee *regrets* that no text has yet been adopted in this regard despite the time that has elapsed and its repeated comments. The Government indicates in its latest report that, as part of its approach to updating laws and regulations on occupational health and safety, the Committee's recommendations on the protection of dockworkers will be taken into account in consultation with the relevant stakeholders and occupational hazard control and prevention bodies. **The Committee urges the Government to take the necessary measures, without further delay, to adopt the laws or regulations on the protection of dockworkers against accidents in order to give full effect to the Convention, or at least to provide specific information on the guidelines adopted and deadlines established in this regard, including in connection with updating the texts relating to occupational safety and health. The Committee reminds the Government that it can avail itself of the technical assistance of the Office in this regard.**

*Article 17 of the Convention and Part V of the report form. Labour inspection and occupational accidents.* The Committee notes the Government's indication that the combined efforts of actors in the sector with regard to the prevention of occupational hazards have contributed to greatly reducing the number of occupational accidents reported to the National Social Insurance Fund for Salaried Employees (CNAS) for all ports, from 262 in 2015 to 120 in August 2018. The Government further states that the 2018 Finance Act (Act No. 17-11 of 27 December 2017) has increased penalties in cases of negligence or non-compliance with occupational safety, health and medicine rules by management. **The Committee requests the Government to continue to provide specific and detailed information on the manner in which the Convention is applied, including relevant reports from the inspection services and details on the number of inspections carried out, the number of violations detected and the nature and causes of accidents recorded.**

*Prospects for the ratification of the most up-to-date Convention.* **The Committee encourages the Government to consider the decision adopted by the Governing Body at its 328th Session (October–November 2016) approving the recommendations of the Standards Review Mechanism Tripartite Working Group, and to consider the possibility of ratifying the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152), which is the most up-to-date instrument in this area. The Committee reminds the Government that it can avail itself of the technical assistance of the Office in this regard.**

### Congo

#### **Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)** (ratification: 1986)

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 2020, 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 *regret* that the report submitted by the Government is identical to the most recent report submitted by the Government in 2007 which formed the basis for the Committee's observation in 2008 repeated in 2009, 2010 and 2011 for lack of a response from the Government. **The Committee urges the Government to solicit technical assistance of the ILO to resolve any problems related to the application of this Convention, and hopes that a report will be supplied for examination by**

***the Committee at its next session. In the meantime and in the absence of any new information, the Committee must, yet again, repeat its previous observation which read as follows:***

The Committee notes the information provided by the Government according to which a national advisory technical committee on occupational safety and health has been set up pursuant to Decree No. 2000-29 of 17 March 2000 which gives effect to *Article 7 of the Convention*. It also notes, however, that the information requested concerning *Articles 2, 4, 5, 6 and 11–36* are to be provided by the Government subsequently. As regards the further information the Committee has requested the Government to provide, the Committee notes that the Government has either not replied to questions raised by the Committee in its previous comments or it has provided information that is applicable to enterprises in general. The Government appears to imply that dockworkers should be treated in the same manner as other workers and ports be treated like any other enterprise. ***With reference to Articles 4–7, the Committee wishes to recall that the Government is required to take measures to give effect to the specific provisions in the Convention. The Committee must therefore once again repeat its previous observation which read as follows:***

The Committee draws the Government's attention to the absence of specific health and safety provisions for dock work. The Committee noted previously that a draft Order on safety and health in dock work had been prepared by the technical departments of the Ministry of Labour and Social Security. In its report for the period ending 30 June 1993, the Government repeated this information and added that the draft had been submitted for adoption. The Committee hopes that the provisions of this text will ensure the application of the following provisions of the Convention: *Article 4* (objectives and areas to be covered by measures to be established by national laws and regulations, in accordance with Part III of the Convention); *Article 5* (responsibility of employers, owners, masters or other persons as appropriate, for compliance with safety and health measures; duty of employers to collaborate whenever two or more of them undertake activities simultaneously at one workplace); *Article 7* (consultation of and collaboration between employers and workers). ***It asks the Government to provide a copy of the above Order as soon as it has been adopted.***

In its previous reports, the Government referred to Orders No. 9033/MTERFPPS/DGT/DSSHT on the organization and functioning of the socio-medical centres of enterprises in the People's Republic of the Congo and No. 9034/MTERFPPS/DGT/DSSHT laying down the procedures for the establishment of socio-medical centres which are common to several enterprises in the People's Republic of the Congo. ***Since these texts have not been received, the Committee would be grateful if the Government would provide a copy of them.***

***Article 6.*** The Committee notes from the Government's report for the period ending 30 June 1993 that briefings are to be organized to inform workers about safety provisions in the place of work at which heads of establishment can alert them about the dangers arising from the use of machinery and the precautions to be taken. ***The Committee asks the Government to provide a copy of the provisions concerning the organization of these briefings and the measures taken to give effect to paragraph 1(c) of this Article.***

***Article 8.*** The Committee notes the Government's statement in its report for the period ending 30 June 1993 that all safety measures are provided for in Chapter II of Order No. 9036 of 10 December 1986. The Committee notes that the above part of the Order provides for general protective measures whereas the Convention requires the adoption of measures specific to dock work. ***It asks the Government to indicate which provisions require the adoption of effective measures (fencing, flagging or other suitable means including, when necessary, cessation of work) to ensure that when the workplace has become unsafe, workers are protected until it has been made safe again.***

***Article 14.*** The Committee notes from the Government's report for the period ending 30 June 1993 that the application of this Article is ensured by labour inspectors by means of inspections in enterprises. ***The Committee asks the Government to indicate which provisions ensure that electrical equipment and installations are so constructed, installed, operated and maintained as to prevent danger, and which standards for electrical equipment and installations have been recognized by the competent authorities.***

***Article 17.*** The Committee notes that section 41 of Order No. 9036, cited by the Government in its report for the period ending 30 June 1993 as giving effect to this Article of the Convention, includes specific measures only for the use of lifting gear in particular weather conditions (wind). ***The Committee asks the Government to indicate the measures taken to ensure that the means of access to a ship's hold or cargo deck are in conformity with the provisions of this Article.***

***Article 21.*** The Committee notes the provisions of sections 47–49 of Order No. 9036 which the Government cites in its report for the period ending 30 June 1993 as giving effect to this Article of the Convention. It notes that the above sections provide for protective measures for some machinery or parts of machines which can be dangerous. ***It asks the Government to indicate the measures taken or envisaged to ensure that all lifting appliances, every item of loose gear and every sling or lifting device forming an integral part of a load comply with the provisions of the Convention.***

***Articles 22, 23, 24 and 25.*** Further to its previous comments, the Committee notes that, in its report for the period ending 30 June 1993, the Government refers to the certification of machinery, including lifting appliances, which is conducted by technical inspectors and advisory bodies, as a general measure to ensure that lifting appliances are sound and in proper working order. However, these Articles of the Convention provide for a set of measures to ensure that appliances and loose gear can be used by workers without any danger or risk: testing of all lifting appliances and loose gear (every five years in ships); thorough examination (at least once every 12 months); regular inspection before use. ***The Committee asks the Government to indicate the provisions requiring the above measures to be taken in respect of all lifting appliances – on shore and on board – and of all loose gear.***

***Article 30.*** The Committee notes that section 43 of Order No. 9036 referred to by the Government, does not relate to the attaching of loads to lifting appliances. ***It asks the Government to indicate which provisions relate to this matter.***

***Article 34.*** ***The Committee asks the Government to provide a copy of the instructions concerning the wearing of personal protective equipment referred to by the Government in its report for the period ending 30 June 1993.***

***Article 35.*** Further to its previous comments, the Committee notes that section 147 of the Labour Code regulates the evacuation of injured persons who are able to be moved and who are not able to be treated by the facilities made available by the employer. It notes that the Government also refers in its reports to Orders Nos 9033 and 9034 mentioned in paragraph 2 above. ***The Committee asks the Government to indicate the measures taken either under the above texts, or otherwise, to ensure that adequate facilities, including trained personnel, are available for the provision of first aid.***

***Article 37(1).*** The Committee recalls that, under this provision of the Convention, committees which include employers' and workers' representatives must be formed at every port where there is a significant number of workers. ***Recalling the Government's statement that the health and safety committees provided for by the law have not been formed, the Committee***

*asks the Government to indicate the measures taken to ensure the establishment of such committees in ports with a significant number of workers.*

*Article 38(1).* The Government indicates in its report that, in the absence of health and safety committees, instruction and training are entrusted to a specialist in the matter within the enterprise. ***The Committee asks the Government to provide information on the activities of these specialists.***

*Article 39.* The Committee notes that section 61 of Act No. 004/86 of 25 February 1986 establishing the Social Security Code gives effect in part to this Article of the Convention. ***It asks the Government to indicate the provisions which ensure that this Article is applied to occupational diseases.***

*Article 41(1)(a).* Further to its previous comments, the Committee notes that the Government refers to Order No. 9036 of 10 December 1986 as being the text which lays down general obligations for the persons and bodies concerned with dock work (ports being treated as any industrial enterprise) and that no specific measures have been taken in respect of dock work. ***The Committee asks the Government to indicate the measures taken or envisaged to set out the specific obligations taken for the persons and bodies concerned with dock work.***

***In the absence of any information on the application of the above provisions, the Committee asks the Government to indicate the specific measures which give effect to the following provisions of the Convention:***

- *Article 9(1) and (2).* Safety measures with regard to lighting and marking of dangerous obstacles.
- *Article 10(1) and (2).* Maintenance of surfaces for traffic or stacking of goods and safe manner of stacking goods.
- *Article 11(1) and (2).* Width of passageways and separate passageways for pedestrians.
- *Article 16(1) and (2).* Safe transport to or from a ship or other place by water, safe embarking and disembarking, and safe transport to or from a workplace on land.
- *Article 18(1)–(5).* Regulations concerning hatch covers.
- *Article 19(1) and (2).* Protection around openings and decks, closing of hatchways when not in use.
- *Article 20(1)–(4).* Safety measures when power vehicles operate in the hold; hatch covers secured against displacement; ventilation regulations; safe means of escape from bins or hoppers when dry bulk is being loaded or unloaded.
- *Article 26(1)–(3).* Members' mutual recognition of arrangements for testing and examination.
- *Article 27(1)–(3).* Marking lifting appliances with safe working loads.
- *Article 28.* Rigging plans.
- *Article 29.* Strength and construction of pallets for supporting loads.
- *Article 31(1) and (2).* Operation and layout of freight container terminals and organization of work in such terminals.
- *Article 38(2).* Minimum age limit for workers operating lifting appliances.

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

## Guinea

### **Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152) (ratification: 1982)**

In its previous observation of 2014, the Committee noted the adoption of the new Labour Code (Act No. L/2014/072/CNT of 10 January 2014) and requested the Government to provide all implementing texts of the Labour Code in the port sector. In this regard, the Committee notes that the Government has referred to three ministerial decisions issued pursuant to the Labour Code pertaining to the fixing of fees for work permits, the determination of protected jobs in the private and related sectors and the use of foreign labour. ***The Committee requests the Government to continue to provide information on the implementing texts of the Labour Code in dock work.***

The Committee notes that the Labour Code contains general provisions on safety and health (Title III “Protection of workers’ health”, chapter I “Occupational safety and health”, sections 231(1)–231(21)), which essentially reproduce the provisions contained in the previous Labour Code. ***Noting that the information provided in the Government’s report remains insufficient as it does not enable the Committee to assess the effect given to numerous provisions of the Convention, the Committee requests the Government to provide further information on any measures taken, for example, ministerial decisions, decrees or regulatory texts, to ensure that the general provisions of the Labour Code are effectively implemented in dock work.***

*Article 6(1)(a) and (b) of the Convention.* Safety of dockworkers. In its previous comments, the Committee noted the Government’s indication that sections 170 and 172 of the Labour Code establish the general obligation for workers to use health and safety equipment correctly and for those responsible for workplaces to organize appropriate practical training with regard to safety and health issues for the benefit of workers, thus ensuring the application of *Article 6(1)(a) and (b)* of the Convention. The Committee notes that these two provisions are essentially reproduced in the new Labour Code under sections 231(3) (formerly section 170) and 231(6) (formerly section 172). ***Noting that the requested information was not submitted, the Committee once again requests the Government to provide detailed information on the measures taken to ensure that these general provisions of the Labour Code are applied specifically to dockworkers. The Committee encourages the Government to indicate any ministerial decisions, decrees or regulatory texts adopted with the aim of ensuring the safety of dockworkers, as well as any guidelines published or practical training provided on safety and health in dock work.***

*Article 6(1)(c) and (2). Participation of workers in workplace safety measures. Noting that the requested information was not submitted, the Committee once again requests the Government to indicate the measures taken for the participation of workers in workplace safety measures, and particularly the level of the guarantees provided that workers can express their views on safety at work to the extent of their control over the equipment and methods of work, express views on the working procedures adopted and report to their immediate supervisor any situation which they have reason to believe could present a risk, so that corrective measures can be taken.*

*Article 7. Consultation with employers and workers.* In its previous comments, the Committee requested the Government to indicate the measures taken to ensure collaboration between workers and employers. The Committee notes the Government's indication that the ministry responsible for labour has two tripartite consultation bodies. These bodies are the Consultative Commission on Labour and Social Legislation and the National Social Dialogue Council. The Committee observes that these two consultation bodies are established under sections 515(1)–515(9) of the Labour Code and, in particular, that the responsibilities of the Consultative Commission on Labour and Social Legislation have been broadened to include the promotion of the implementation of international labour standards and the strict observance of ratified Conventions, and the drafting of regular reports on the application in practice of ILO Conventions and Recommendations (section 515(1)(8)). *The Committee requests the Government to provide information on any opinions, suggestions or resolutions issued by these two consultative bodies in relation to safety and health in dock work, and to provide further information on the measures taken to guarantee consultation between the workers and employers in that sector.*

*Article 12. Firefighting.* The Committee notes that sections 71, 72 and 76 of the Merchant Marine Code briefly touch upon the question of fire protection systems and equipment, but only in the context of inspections of vessels engaged in international voyages. The Committee has been informed of the adoption of a bill issuing the Merchant Marine Code by the Council of Ministers on 25 October 2018. *The Committee requests the Government to provide information on the entry into force of the new Merchant Marine Code, to supply a copy of it and to provide information on the measures taken under this new legislative framework to ensure that appropriate and adequate firefighting resources are made available in ports.*

*Article 32(1). Dangerous cargoes.* In its previous comments, the Committee noted that section 174 of the former Labour Code, reproduced in section 231(9) of the new Labour Code, provides that vendors or distributors of dangerous substances, as well as those responsible for workplaces where such substances are used, are required to mark and label them. *Noting that the requested information has not been provided by the Government, the Committee once again requests the Government to indicate the measures taken to ensure the full application of this provision of the Labour Code, which is general in scope, in the port sector, and to specify, where available, any guidelines or regulatory texts adopted in this regard.*

*Article 37. Safety and health committees.* The Committee notes that section 231(2)(2) of the Labour Code provides that “all establishments or companies regularly employing at least 25 employees must set up a safety and health committee. The role of this committee is to study, develop and ensure the implementation of preventive and protective measures in the field of occupational safety and health.” *The Committee requests the Government to provide information on the implementation of this provision in dock work.*

*Implementation of the Convention.* The Committee previously requested the Government to provide information on the measures taken to ensure the application of the following Articles of the Convention: *Article 16* (safety of water transport to and from a ship or other place, embarking and disembarking, as well as safety of transport to and from a workplace on land); *Article 18* (regulations on hatch covers); *Article 19(1)* (protection of openings on decks); *Article 19(2)* (height and strength of coamings for hatchways that are not in use); *Article 20* (hatch covers, ventilation and evacuation measures); *Article 30* (safety measures to be taken when attaching loads to lifting appliances); *Article 33* (protection against the harmful effects of excessive noise); and *Article 35* (trained personnel for the rescue of persons in danger). *Noting that the requested information was not submitted, the Committee once again requests the Government to indicate the measures taken or envisaged to give effect to the above-mentioned provisions of the Convention and to provide copies of the relevant national laws and regulations.*

Lastly, the Committee previously requested the Government to take measures to ensure the maintenance of lifting appliances and loose gear in conformity with *Articles 8–11, 14, 15, 17, 20–28, 31, 32(2)–(5) and 34* of the Convention. *The Committee once again requests the Government to indicate the measures taken or envisaged regarding the maintenance of lifting appliances and loose gear, in conformity with the requirements under the above-mentioned provisions of the Convention, and to attach copies of the relevant national laws and regulations.*

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 27** (Angola, Azerbaijan, Bangladesh, Honduras, Iraq, Kyrgyzstan, Morocco, Papua New Guinea, Viet Nam); **Convention No. 32** (Bangladesh, Belarus, Belgium, Bulgaria, Canada, Chile, Malta, Mauritius, Nigeria, North Macedonia, Singapore, Tajikistan, Ukraine, United Kingdom, Uruguay); **Convention No. 137** (Afghanistan, Brazil); **Convention No. 152** (Lebanon, Mexico, Peru, Spain, United Republic of Tanzania, Turkey).

The Committee noted the information supplied by the following States in answer to a direct request with regard to: **Convention No. 27** (*Germany, India, Pakistan*); **Convention No. 137** (*France*); **Convention No. 152** (*Brazil, France*).



## Indigenous and tribal peoples

### Plurinational State of Bolivia

#### **Indigenous and Tribal Peoples Convention, 1989 (No. 169)** (ratification: 1991)

The Committee notes the observations of the International Organisation of Employers (IOE), received on 2 September 2019, which include general comments on the application of the Convention. The Committee also notes the observations of the General Confederation of Workers of Peru (CGTP), received on 23 March 2017, which include the report of the Coordinator of Indigenous Organizations of the Amazon River Basin (COICA) concerning the application of the Convention in various countries.

*Articles 2, 3 and 33 of the Convention. Human rights and the institutional framework. Coordinated and systematic action.* The Committee notes the Government's indication in its report that the application of standards relating to the rights of indigenous peoples is a cross-cutting matter in the competent State institutions, both at the central level and in autonomous, departmental, municipal governments and indigenous autonomies. It also notes that, under the terms of the Framework Act on Autonomies and Decentralization of 2010, the statutes were approved of the Guaraní Charagua Iyambae Autonomous Authority, the Original Indigenous Autonomous Authority of Raqaypamba and the Autonomous Government of the Original Uru Chipaya Nation. In accordance with the Act, Original Indigenous Peasant Autonomies (AIOCs) are empowered to elect their authorities directly, administer their economic resources, exercise indigenous jurisdiction within their territorial jurisdiction, and are competent to determine and manage development plans and programmes in accordance with their identity and vision (sections 8 and 9). The Government also refers to the adoption of the Patriotic Agenda 2025, which constitutes the General Economic and Social Development Plan.

The Committee takes due note of the press release of 12 November 2019 of the Inter-American Commission on Human Rights (IACHR), in which the IACHR, in the context of the protests and confrontations of November 2019, refers to the deterioration of public order in the Plurinational State of Bolivia and expresses concern at expressions of hate and other forms of violence against indigenous peoples and their symbols.

The Committee welcomes the cross-cutting approach that has been adopted by the Government to ensure respect for the rights recognized in the Convention. ***The Committee notes with concern the issues raised by the IACHR and firmly hopes that the Government will take measures to prevent and penalize any form of violence against indigenous peoples. The Committee requests the Government to indicate the manner in which the peoples covered by the Convention participate in the planning, execution and evaluation of measures intended to protect their rights, including in the context of the measures adopted under the General Economic and Social Development Plan, and also to indicate the manner in which it is ensured that the institutions responsible for the implementation of these measures have the necessary resources for the discharge of their functions. The Committee further requests the Government to provide information on the functioning of coordination between Original Indigenous Peasant Autonomies and other levels of government in relation to the management and financing of development programmes for indigenous peoples.***

*Article 6. Consultation.* In its previous observation, the Committee noted the process of concertation concerning a legislative proposal on prior consultation, which included the participation of indigenous organizations, intercultural and Afro-Bolivian communities and representatives of the executive, legislative and electoral authorities. The Committee also noted that the Bill was submitted to the Plurinational Legislative Assembly for approval, and requested the Government to provide information on developments in this regard. ***The Committee notes that the Government has not provided information on this subject and once again requests the Government to provide information on any progress in the adoption of legislation on prior consultation. The Committee recalls the need for the consultation of indigenous peoples in the context of this process and for them to be able to participate in an appropriate form through their representative institutions, so that they can express their views and have an influence on the outcome of the process.***

*Consultation with the peoples of the Isidoro Sécuré Indigenous Territory and National Park (TIPNIS).* In its previous observation, the Committee noted that the Government was holding consultations in relation to the project for the construction of the Villa Tunari-San Ignacio de Moxos highway, which would affect the TIPNIS. It noted that, of the 69 indigenous communities affected, 58 decided to engage in consultation and 11 decided not to do so, and it requested the Government to provide information enabling it to examine the manner in which the difficulties arising in relation to the project were resolved. The Committee notes the Government's indication that, despite the fact the majority of indigenous communities agreed to the construction of the highway, consensus was not reached with all the indigenous communities inhabiting the TIPNIS, for which reason construction was suspended. The Committee notes the adoption on 13 August 2017 of Act No. 969 on the protection and sustainable and comprehensive development of the Isiboro Sécuré Indigenous Territory and National Park (TIPNIS), as a result of the consultation of the Mojeño-Trinitario, Chimán and Yuracaré peoples. The Act provides that communication and integration action to improve, establish and maintain the rights of indigenous peoples, such as free movement, through the opening of local paths, roads, river, air and other navigation systems, shall be planned in a participatory manner with the indigenous peoples (section 9). It also provides that the exploitation of renewable natural resources and the development of productive activities may be undertaken with the participation of private entities on

condition that agreements or associations exist with the indigenous peoples of the TIPNIS, with the authorization and monitoring of the competent State bodies, and with the guarantee of a margin of earnings for those peoples (section 10). The Committee notes that, in order to ensure compliance with Act No. 969, it is planned to establish a Joint Commission under the responsibility of the Office of the President, composed of the Ministries involved and the Mojeño-Trinitario, Chimán and Yuracaré peoples residing in the territory of the TIPNIS. *The Committee requests the Government to indicate whether road and infrastructure development projects have been undertaken in the TIPNIS, with an indication of the manner in which the indigenous peoples residing in the area were consulted in this regard. The Committee also requests the Government to provide information on the agreements or associations established between the private sector and indigenous peoples for the exploitation of renewable natural resources and the development of productive activities, with an indication of the manner in which the peoples have participated in the benefits of these activities. Please also provide information on the activities of the Joint Commission established to ensure effective compliance with Act No. 969.*

*Article 15. Consultations. Natural resources.* The Committee notes the adoption on 19 May 2014 of the Act on minerals and metallurgy, section 207 of which guarantees the right to prior, free and informed consultation by the State with original indigenous rural nations and peoples, intercultural communities and the Afro-Bolivian people, in relation to any application for the conclusion of an administrative mining contract likely to directly affect their collective rights. However, the Committee notes that this legal provision exempts from the requirement of consultation mining prospection and exploration operations, as well as administrative mining contracts for the rehabilitation of sites and lease and shared irrigation contracts, as pre-established rights. In accordance with section 209 of the Act, the parties to the consultation have to meet the conditions of: pre-colonial existence and ancestral possession of the territory; maintenance of their cultural patterns; identification as members of a nation or people; and access and collective management of their lands and territories. The Act also provides that prior consultation shall be held in a maximum of three meetings and shall not have a duration of over four months from the final notification of the consultation process to the parties concerned (sections 211 and 212).

The Committee notes that Presidential Decree No. 2298, of 18 March 2015, includes provisions for the holding of consultations and the participation of indigenous peoples in relation to oil extraction activities. It provides that the competent authority, in accordance with the territorial identification, organizational independence and traditions and customs of indigenous peoples, shall convene in writing the representation bodies liable to be affected with a view to holding an information and coordination meeting for the development of the consultation process. In the event that, exceptionally, it is not possible to hold or conclude consultation processes for reasons that cannot be attributed to the competent authority, the latter shall issue a decision determining the situation with regard to the implementation of the project and reporting all of the efforts made to follow the process of consultation and to safeguard the rights of indigenous peoples.

*The Committee recalls that Article 15(2) of the Convention establishes the requirement for consultation with indigenous peoples before undertaking or permitting any programmes for the exploration or exploitation of natural resources pertaining to their lands, and it therefore requests the Government: (1) to amend the Act on mining and metallurgy to bring it into conformity with the Convention so as to ensure that indigenous peoples are consulted before any mining exploration or exploitation operations are undertaken on their lands; (2) to ensure that any mining, oil or gas exploration or exploitation programme or activity undertaken on the lands of the peoples covered by the Convention is the subject of consultation with the peoples concerned; and (3) to indicate the manner in which in practice the requirement of access and the collective management of lands is understood under the terms of the Act as being a matter for consultation.*

The Committee recalls that, in its 2011 general observation, it emphasized that the application of the right to consultation must be adapted to the situation of the peoples concerned, ensuring that the communities affected participate as early as possible in the process, including in the preparation of environmental impact studies. *In this regard, the Committee requests the Government to indicate the manner in which the consultation processes undertaken in relation to mining and oil extraction activities have taken into account the decision-making institutions and procedures of the peoples concerned. It also requests the Government to provide information on the consultation processes undertaken in relation to mining and oil projects in which agreement has been reached with the peoples consulted, with an indication of the manner in which the concerns of indigenous peoples who have not been able to participate in the consultation processes have been taken into consideration.*

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

## Brazil

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169)** (ratification: 2002)

The Committee notes the observations of the International Organisation of Employers (IOE), received on 2 September 2019; 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-Amambaipégua 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 Guyaroká 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 Tupiniquim 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 “timeframe” 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.

## Colombia

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169)** (ratification: 1991)

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, which highlight and welcome the Government's efforts towards the implementation of the Convention. The Committee also notes the observations of the IOE, received on 2 September 2019.

The Committee also notes the observations of the Workers' Trade Union Confederation of the Oil Industry (USO) received on 1 September 2017; the joint observations of the Single Confederation of Workers of Colombia (CUT), the Colombian Federation of Education Workers (FECODE) and the Teachers' Association of Cundinamarca (ADEC) received on 30 May 2018; and the joint observations of the Confederation of Workers of Colombia (CTC) and the CUT received on 1 September 2018. The Committee notes the Government's reply to the joint observations of the CTC and CUT, and to the observations of the ANDI and IOE, received on 23 November 2018, and to the joint observations of the CUT, FECODE and ADEC, received on 20 May 2019.

The Committee also notes the observations of the General Confederation of Workers of Peru (CGTP) received on 23 March 2017, which include the report of the Coordinating Body of Indigenous Organizations in the Amazon Basin (COICA) on the application of the Convention in various countries.

*Articles 2, 3 and 33 of the Convention. Restoration of peace. Human rights. Reparations.* The Committee notes the Final Agreement for the end of the conflict and the building of stable and lasting peace signed by the Government and the Revolutionary Armed Forces of Colombia on 24 November 2016, and the corresponding Framework Plan for its implementation. The Committee welcomes the inclusion, in the Agreement, of a chapter on ethnic groups, which establishes that the interpretation and implementation of the Agreement shall take into account the principles of participation and consultation, identity and cultural integrity and the rights of ethnic peoples over their land. The Committee notes that the Framework Plan for the implementation of the Agreement contains specific targets and indicators for indigenous peoples, persons of African descent, and Raizal, Palenquero and Roma peoples, which were determined in consultation with the Government and the special high-level body for ethnic peoples. The targets include the delineation and protection of collective lands, the participation of the peoples concerned in the comprehensive rural reform, and the promotion of the participation and leadership of indigenous and Roma women and women of African descent.

The Committee notes that the Unit for comprehensive victim support and reparation is the entity responsible for registering individual or collective victims, and in implementing support, assistance and reparation measures. The Unit houses the Ethnic Affairs Directorate, whose function is to coordinate the comprehensive support and reparation actions for indigenous peoples and communities, the Roma people and the Black, Afro-Colombian, Raizal and Palenquero communities. The Government indicates that any person or authorized spokespersons of the communities can report violations of their rights in the context of the armed conflict to the offices of the State Prosecutor, following which the Unit reviews these reports in order to determine whether the victims will be registered. The Government adds that collective reparation plans incorporate the stages of identification, registration, enlistment and assessment of the damage, drawing up the reparations plan, implementation and follow-up. According to information from the Unit for comprehensive victim support and reparation, the number of collective victims from ethnic groups as of February 2018 was 390; while in October 2019 there were 227,686 individual victims from indigenous peoples, 792,540 identified as Afro-Colombian, 19,317 as Roma, 10,048 as Raizal and 2,731 as Palenquero people. The Committee notes the Government's indication that the Committee for follow-up and monitoring the implementation of Decree Laws Nos 4633, 4634 and 4635 of 2011 on comprehensive reparation measures and restitution of territorial rights of collective victims belonging to indigenous peoples, Roma or Gypsy peoples, and the Black, Afro-Colombian, Raizal and Palenquero communities, respectively, set out, in its five reports submitted to Congress, its concern at the significant delay in the implementation of collective reparations for ethnic groups. In this regard, the Committee notes that, in their joint observations, the CUT and the CTC also refer to the shortcomings in the implementation of collective reparations mechanisms for indigenous communities.

In its previous comments, the Committee noted the ethnic safeguard plans for the indigenous peoples who have faced threats to their life and culture owing to the armed conflict, which had been issued by the Constitutional Court in its ruling No. 004 of 2009. The Committee requested the Government to provide information on the implementation and impact of those plans. In this respect, the Government reports that in 2017 there were 39 ethnic safeguard plans, of which 78 per cent

have passed the self-assessment stage with the peoples concerned, 62 per cent have passed the concertation stage and 46 per cent are in the implementation stage.

The Committee notes that, in its 2019 report on the situation of human rights in Colombia, the United Nations High Commissioner for Human Rights noted with concern the high number of killings of human rights defenders of indigenous and Afro-Colombian persons primarily in Antioquia, Cauca and Norte de Santander (A/HRC/40/3/Add. 3 of 4 February 2019, paragraphs 15–17). The Committee also observes that the 2018 report of the State Prosecutor, entitled “Systemic violence against territorial rights defenders in Colombia”, analyses the interplay of violence against land rights defenders and their actions to defend their land rights. The report indicates that between January 2016 and March 2017, 156 murders of social campaigners, community leaders and human rights defenders were registered, at least 25 per cent of whom were leaders of indigenous peoples and communities. The Committee notes that, in its observations, USO refers in general to threats and acts of violence faced by the indigenous communities (Chidima Tolo and Pescadito) in the northern part of the Chocó region owing to the presence and actions of armed groups on their lands. It also refers to limitations to their right to movement inside and outside of their territory, and to the existence of anti-personnel mines and explosives, which amounts to a high-risk situation for members of the communities.

***The Committee encourages the Government to continue to take actions for the restoration of peace that may contribute to the cessation of violence, the inclusion of members of the peoples covered by the Convention in the economic and social development of the country, and the full exercise of their human and collective rights. The Committee urges the Government to take appropriate measures to investigate the causes, establish responsibility and punish the perpetrators and instigators of the murders of indigenous rights defenders and acts of violence, and to guarantee the physical integrity and access to justice of the peoples covered by the Convention who continue to be victims of the conflict.***

***The Committee recalls that the Convention is an instrument that seeks to contribute to sustainable and inclusive peace and requests the Government to provide information on the manner in which the peoples covered by the Convention participate in the implementation of the Peace Agreement in all aspects that concern them. The Committee also requests the Government to intensify its efforts to ensure the implementation, without delay, of the collective reparations plans and ethnic safeguard plans, and provide detailed and updated information on progress in this regard, indicating the manner in which the peoples covered by the Convention have participated in the evaluation of the implementation and sustainability of the measures taken to this end.***

*Articles 6, 7 and 15. Consultation. Development projects.* In its previous observation, the Committee noted the Presidential Directive No. 10 of 2013, containing the Guide on holding prior consultations with ethnic communities; as well as the document approved in 2013 by the National Economic and Social Policy Council, namely the Conpes Document No. 3762, which sets out the main features for the development of projects of national and strategic interest and, according to the Government, seeks to improve the exercise of the right to prior consultation. The Committee requested the Government to report on the functioning of those mechanisms and on the manner in which the participation of ethnic peoples covered by the Convention is ensured in the benefits accruing from such activities. The Government indicates that, between 2013 and 2018, 6,243 prior consultation processes were carried out, of which 18 per cent regarded activities in the hydrocarbons sector, 10 per cent in the environmental sector, 9 per cent in infrastructure and telecommunications, 7 per cent in mining and 6 per cent in electricity. The Government indicates that the Directorate for Prior Consultation of the Ministry of the Interior takes into consideration the principles developed by the Constitutional Court in its decisions regarding consultation, particularly as they relate to mining or port projects and infrastructure works, and provides examples of the way in which these principles of jurisprudence have been applied in prior consultations held with the different communities.

With respect to the identification of the communities to be consulted, the Government reports that the process to certify the presence or otherwise of ethnic communities in the area that will be affected by a project, works or activities is initiated by an application from the persons concerned, which is examined by the Directorate for Prior Consultation of the Ministry of the Interior to determine whether the information provided by the applicant is sufficient to continue with the certification process. This information is compared with the information contained in the cartographic databases of indigenous reservations and community councils; the databases of the Directorate for Indigenous Affairs and Roma Communities and the Directorate for Black, Raizal and Palenquero communities; the database for prior consultation; and the information on applications for collective land titling by indigenous and Black communities from the National Land Agency. The Government specifies that, where there is uncertainty in determining the presence of an ethnic community within the area of interest of the projects, works or activities, a visit is planned to verify the situation.

The Committee notes that, in its observations, the IOE indicates that the lack of clear rules for the development of the processes of prior consultation is a concern for the ANDI. The ANDI considers that despite the extensive jurisprudence of the Constitutional Court on the matter, there is no legislation that establishes basic guidelines in relation to the stages of prior consultation process, its duration, costs rights and obligations of the parties involved in the process and a closing mechanism. Therefore, the ANDI, the lack of clear rules in prior consultation processes becomes the main difficulty to advance investments in the country.

***The Committee notes all of this information and, with reference to its previous observation, once again requests the Government to indicate whether Presidential Directive No. 10 and the Conpes Document No. 3762 are still applied and, if so, to provide information in this respect. The Committee requests the Government to continue providing information on the progress towards the adoption of regulations for prior consultation relating to projects undertaken***

*on land belonging to peoples covered by the Convention, with an indication of the measures taken to ensure that full and informed consultations are held with the peoples concerned. It also requests the Government to indicate which mechanisms are in place to ensure the participation of those peoples in the benefits accruing from such activities.*

The Committee also notes that ruling No. SU 123 de 2018 of the Constitutional Court, which compiles the Court's jurisprudence on prior consultation, states that prior consultation is imperative "when there is reasonable evidence that a measure is likely to directly affect an indigenous people or a community of African descent". The Committee recalls that Article 15(2) of the Convention sets out that the aim of the consultation is to ascertain whether and to what degree the interests of the peoples concerned would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of resources pertaining to their lands. The Convention does not set forth evidence of a possible impact as a condition for consultation. *In this connection, the Committee requests the Government to adopt measures to ensure that, in practice, the scope of the obligation of consultation is not reduced, by requiring evidence that the measure is likely to affect the indigenous peoples. Considering that Article 15(2) establishes the obligation to ascertain whether and to what degree the interest of these peoples would be prejudiced, before undertaking or permitting any programmes for the exploration or exploitation of resources pertaining to their lands, the Committee trusts that the judicial interpretation be read and applied in this sense.*

*Fees for holding prior consultation.* The Committee notes that, in its ruling No. SU123 de 2018, the Constitutional Court ordered Congress and the Government to take measures to establish a robust institutional framework for the issuance of certificates regarding the presence of ethnic groups in areas affected by projects, works and activities that balances between the right to consultation of the ethnic groups with the legal certainty of the investors. It notes in this respect that section 161 of Act No. 1955 of 2019 establishes the fee for holding prior consultation, which must be paid to the Ministry of the Interior by the party organizing the prior consultation and must cover the costs of the fees of the officials who devise the methodology, preconsultation and consultation, including travel expenses. The Act also provides for related costs and access to information on the presence of communities. The Committee recalls that in its general observation of 2018 it highlighted that it is incumbent upon governments to establish appropriate mechanisms for consultation at the national level and that public authorities must undertake consultations, without interference, in a manner appropriate to the circumstances. *The Committee requests the Government to provide information and examples of the application in practice of the fees for holding prior consultation, with an indication of whether this has affected the effective implementation of consultation processes with the peoples covered by the Convention.*

## Honduras

### **Indigenous and Tribal Peoples Convention, 1989 (No. 169)** (ratification: 1995)

The Committee notes the observations of the Honduran National Business Council (COHEP), supported by the International Organisation of Employers (IOE), received on 1 September 2018, and the Government's reply, received on 18 October 2018. The Committee also notes the observations of the COHEP received on 2 September 2019 and the Government's reply, received on 9 October 2019. Lastly, the Committee notes the observations of the IOE, received on 2 September 2019, include general comments of the application of the Convention.

### **Follow-up to the conclusions of the Committee on the Application of Standards** (International Labour Conference, 105th Session, May–June 2016)

*Article 3 of the Convention. Human rights.* In its previous comments, the Committee noted with deep concern, as did the Conference Committee in its conclusions of 2016, the information regarding murders, threats and violence against representatives and defenders of the rights of indigenous peoples, as well as the climate of impunity. The Government was firmly urged to take the necessary measures to provide adequate protections for members of indigenous communities and their representatives against any acts of violence or threats, to investigate the reported murders and acts of violence and provide information in that respect.

In its report, the Government refers in general terms to the security and protection measures taken by the governing body of the national protection system in relation to several indigenous and rural communities, including police measures and measures for the installation of infrastructure and technology for human rights defenders in their own communities. The Government also refers to the adoption of preventive measures in the form of training for local authorities and awareness-raising activities on the importance of the work of defenders of indigenous peoples. In this respect, the Committee notes that, among the special prosecutors, in 2018, the Office of the Special Prosecutor for the Protection of Human Rights Defenders, Journalists, Media Representatives and Justice Officials was established.

The Committee notes with *regret* that the Government has not provided more detailed information on the specific measures adopted in relation to the investigations conducted and the legal proceedings in process concerning the acts of violence, including murder, against representatives and defenders of indigenous peoples. In this respect, the Committee notes in relation to the murder of Ms Berta Cáceres (former president of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH)), to which it referred in its previous observation, that, according to information from the judicial authorities and the Public Prosecutor's Office, on 29 November 2018, the First Chamber of the Trial Court with

national jurisdiction found guilty seven citizens as co-perpetrators of the murder. The Committee also notes that, in December 2019, the Special Prosecutor for Crimes against Life requested that a case be opened against a citizen accused of instigating the murder of Ms Berta Cáceres.

The Committee notes that, in his 2019 report, the Special Rapporteur on the situation of human rights defenders in Honduras recognizes persons defending the rights of indigenous peoples as one of the specific groups of human rights defenders who are at risk. The Rapporteur notes that the threats made against indigenous peoples are essentially linked to their efforts to defend their land and natural resources, fight racism and discrimination and claim their economic, social and cultural rights and their right to access to justice. He indicates that indigenous activists of the Lenca, Maya, Tolupán, Garifuna, Nahua, Pech Tawahka and Misquito peoples frequently face death, prosecution, stigmatization, judicial harassment and discrimination for fighting for the rights of their peoples and observes that, “The vast majority of murders and attacks targeting rights defenders go unpunished; if investigations are launched at all, they are inconclusive.” (A/HRC/40/60/Add.2).

***The Committee urges the Government to take the necessary measures to foster a climate free from violence in which the physical safety of members of indigenous communities and their representatives is sufficiently protected, and the full and effective exercise of their human and collective rights is guaranteed, as well as their access to justice. While noting the progress made in the identification, prosecution and conviction of the perpetrators of the murder of Ms Berta Cáceres, the Committee urges the Government to take the appropriate measures to ensure that the instigators are held accountable and penalized. The Committee requests the Government to provide detailed information on the other complaints made of acts of violence and threats against indigenous peoples and Afro-Hondurans and their representatives in the context of claiming their economic, social and cultural rights; as well as the investigations and proceedings initiated.***

**Articles 6 and 7. Appropriate consultation and participation procedures.** The Committee recalls that, along with the Conference Committee, it urged the Government to take the necessary steps to establish appropriate consultation and participation procedures in accordance with the Convention and ensure that peoples covered by the Convention are consulted and are able to participate in an appropriate manner in the formulation of such procedures. The Committee noted that, between May and October 2016, workshops were held with the nine indigenous and Afro-Honduran peoples for dialogue on a preliminary draft Bill on prior, free and informed consultation with indigenous peoples and that the process was marked by the absence of representative organizations, such as the Fraternal Afro-Honduran Organization (OFRANEH) and the COPINH.

The Government indicates that, following the consultation process on the draft Bill, a national workshop was organized with the participation of the organizations of the populations concerned, which submitted a draft with the contributions of eight of the nine indigenous and Afro-Honduran peoples (the Lenca peoples withdrew from the process). The OFRANEH and the COPINH also did not participate in the dialogue. The Government indicates that, since that time, it has remained open to any organization that wishes to express its opinion on the revised draft Bill on consultation and adds that, on 14 July 2018, it also held a meeting with the Confederation of Indigenous Peoples of Honduras (CONPAH), which brings together all the indigenous and Afro-Honduran peoples. At that meeting, it was reported that the Government had referred the draft Bill to the National Congress, which subsequently established a Special Advisory Committee on the Consultation Act. The Government also reports that it has benefited from the technical comments of the International Labour Office.

The Committee notes that, in its observations, the COHEP reiterates its support for the adoption of an Act on prior, free and informed consultation, developed in accordance with the Convention and following dialogue with all the social partners. It also indicates that the dialogue and consultation processes with the indigenous communities to inform them of bills or legislative or administrative measures likely to directly affect indigenous and Afro-Honduran peoples are conducted in open forums.

***The Committee encourages the Government to continue taking the necessary measures with a view to the establishment of appropriate procedures for consultation with peoples covered by the Convention on any legislative or administrative measures likely to affect them, in accordance with the Convention. In this respect, the Committee considers it of the utmost importance that the Act adopted is the result of a process of full, free and informed consent with all the indigenous and Afro-Honduran peoples and therefore urges the Government to take the necessary measures to ensure that indigenous peoples are consulted and are able to participate in an appropriate manner through their representative bodies in the formulation of these procedures, so that they can express their opinions and influence the final outcome of the process. Until the adoption of the Act, the Committee once again requests the Government to provide detailed information on the consultation processes held in relation to measures that directly affect indigenous peoples.***

**Articles 20, 24, and 25. Protection of the rights of the Misquito people.** In its previous comments, the Committee requested the Government to continue providing information on the impact of the measures adopted to improve the protection and conditions of work of Misquito dive-fishers and on the possibility of regulating dive-fishing. The Government indicates that it has been developing comprehensive compensation actions that go beyond the individual compensation of those affected by dive-fishing and aim to benefit the entire Misquito community. These compensation procedures are developed in collaboration with the victims (divers with disabilities) and the representative organizations of the Honduran Misquito population so as to guide the State in the implementation of projects that genuinely meet their needs. In relation to measures adopted in the field of health, the Government refers to: a cooperation agreement to provide comprehensive health services to the population engaged in dive-fishing activities with priority given to divers suffering from

decompression sickness; a project to establish a centre for hyperbaric and diving medicine to provide preventive, therapeutic and rehabilitative medical care to divers with sequelae; and the commissioning of a water ambulance. The Government also indicates that: 33 scholarships for primary, secondary and university education have been granted to the children of divers with disabilities or deceased divers; a project for the construction of social housing is being carried out in various municipalities of the Gracias a Dios department; a fund has been established for the execution of different productive projects, in consultation with the Misquito population; and inspections were carried out on dive-fishing boats and at various small islands.

The Committee notes that the United Nations Committee on the Elimination of Racial Discrimination, in its concluding observations of 2019, expressed concern regarding the situation of Misquito divers, who continue to be the victims of precarious working conditions, without adequate occupational safety measures, and the increase in the number of divers who are victims of accidents due to underwater fishing (CERD/C/HND/CO/6-8). The Committee also notes that, during its visit to the Mosquitia region, the Inter-American Commission on Human Rights (IACHR) observed concerning scenes of poverty, unemployment, a lack of health and energy services and a dearth of water sources and sanitation.

The Committee welcomes the comprehensive approach adopted by the Government in relation to the situation of Misquito divers, which seeks to grant comprehensive compensation to the victims of dive-fishing and improve the living and working conditions of the members of the Misquito community. ***The Committee encourages the Government to continue taking special measures in this respect, indicating the results achieved and the challenges that remain in improving the working conditions of Misquito divers, the inspection of those conditions and the living conditions of the Misquito population. Please indicate the manner in which the members of the Misquito population participate in the formulation, application and evaluation of such measures.***

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

## Mexico

### ***Indigenous and Tribal Peoples Convention, 1989 (No. 169)*** ***(ratification: 1990)***

The Committee notes the observations of the State and Municipal Services Workers' Union of Tabasco, received on 28 April 2016, and of IndustriALL Global Union (IndustriALL), received on 1 September 2017. It also notes the observations of the Confederation of Employers of the Republic of Mexico (COPARMEX) and the Confederation of Workers of Mexico (CTM), transmitted by the Government attached to its report. The Committee also notes the observations of the International Organisation of Employers (IOE), received on 2 September 2019, which include general comments on the application of the Convention.

***Articles 2 and 33 of the Convention. Coordinated and systematic action. National Indigenous Peoples Institute.*** The Committee notes with ***interest*** the creation of the National Indigenous Peoples Institute (INPI) by the Act adopted on 4 December 2018, which replaces the National Commission for the Development of Indigenous Peoples. The Government indicates in its report that the INPI is a decentralized body, under the authority of the federal executive authorities, responsible for defining, setting standards, designing, implementing, following up and evaluating policies and programmes for indigenous and Afro-Mexican peoples and for ensuring respect for their rights. In the exercise of its functions, the INPI is required to take action for collaboration and coordination with the departments and institutions of the federal public administration, the governments of federated entities and municipal authorities; ensure the participation of indigenous and Afro-Mexican peoples; and engage in dialogue with the social and private sectors, as well as with international organizations. The Committee notes that, within the structure of the INPI, the National Indigenous Peoples Council has been established as a body for participation, consultation and building relations with indigenous and Afro-Mexican peoples. The Council is composed of representatives of indigenous and Afro-Mexican peoples, academic institutions specializing in indigenous subjects, indigenous organizations, the migrant indigenous population resident abroad, the officers of the indigenous affairs commissions of the Congress of the Union, the governments of federated entities and international organizations (sections 11 and 18 of the Act). ***The Committee welcomes the establishment of the National Indigenous Peoples Institute as the national institution responsible for indigenous affairs and trusts that it will contribute to the implementation of coordinated and systematic action by government institutions and bodies at all levels, with the participation of indigenous and Afro-Mexican peoples, with a view to the effective implementation of the Convention. The Committee requests the Government to provide information on the means and resources available to the Institute for the full discharge of its functions, with an indication of the manner in which in practice the National Indigenous Peoples Council participates in the design and monitoring of the policies and programmes for which the Institute is responsible.***

***Articles 2(2)(b) and 7. Development. National Programme for Indigenous Peoples.*** In its previous comments, the Committee requested the Government to provide information on programmes and projects for the promotion of the economic and social rights of indigenous peoples. The Committee notes the detailed information provided by the Government on the action taken within the framework of the various programmes for the social and economic development of indigenous peoples, and particularly the Indigenous Infrastructure Programme (PROII) and the Programme for the Improvement of Indigenous Production and Productivity (PROIN). It also notes the information provided on the allocation of the budget

approved for these programmes. The Government indicates that, between 2014 and 2018, through the PROIN, a total of 52,899 men and 53,299 women received support for productive community projects, and that 67,230 men and 51,858 women benefited from climate change adaptation and mitigation measures. However, the Committee notes that, according to the statistics published in 2018 by the National Council for the Evaluation of the Social Development Policy (CONEVAL), 2.2 million people speaking an indigenous language were subject to food shortages. The Committee notes that, in its observations included in the Government's report, the Confederation of Employers of the Republic of Mexico (COPARMEX) emphasizes the broad legal framework for the protection of the rights of indigenous peoples and the progress made in the specific public policies covering them. However, the COPARMEX observes that there are still shortcomings and, according to CONEVAL data, 71.9 per cent of the indigenous population, that is 8.3 million people, were living in poverty in 2016, and the figure rises to 77.6 per cent among the population speaking an indigenous language, which is greatly above the national average (43.65 per cent).

The Committee welcomes the adoption of the National Programme for Indigenous Peoples 2018–24, which aims of strengthening the processes of independence and the organization of indigenous and Afro-Mexican peoples, and their effective participation in the design, implementation and evaluation of public policies and programmes that affect them. The objectives of the Programme include the development of comprehensive regional development plans in coordination with indigenous and Afro-Mexican peoples, the strengthening of productive projects with a gender perspective, employment generation, the improvement of communication infrastructure and the promotion and implementation of the rights of participation and consultation. ***The Committee trusts that the Government will take the necessary measures to achieve the objectives set out in the National Programme for Indigenous Peoples 2018–24 and requests the Government to provide information, including statistical data, on the impact of the measures and programmes adopted in this framework for the realization of the economic, social and cultural rights of members of indigenous and Afro-Mexican peoples. The Committee also requests the Government to indicate the manner in which indigenous and Afro-Mexican peoples participate in the design, implementation and evaluation of development initiatives undertaken in the context of the Programme at the federal level and in the various federated entities.***

***Article 3. Human rights. Reproductive health.*** In its previous comments, the Committee requested the Government to provide information on the manner in which the informed consent of members of indigenous peoples is ensured in family planning and contraception programmes. The Government indicates that, since 2013, family planning and contraception programmes have been implemented adopting an intercultural approach targeting young persons in indigenous populations. The Government adds that “intercultural links” have been organized in 11 federated entities, which consist of persons from indigenous communities who have been trained in maternity and neo-natal care, and who serve as interpreters between health professionals and indigenous women, thereby strengthening the trust and credibility of health services among the indigenous population. The Committee takes note of General Recommendation No. 31/2017 of the National Human Rights Commission (a decentralized governmental body empowered to issue recommendations on human rights to the public authorities), which indicates that midwives, in the same way as indigenous pregnant women, are subject to cultural and social ill treatment in reproductive health, and recommends the adoption of the necessary measures to strengthen the process of developing closer relations between traditional birth-giving and the national health system. ***The Committee requests the Government to provide detailed information on the manner in which indigenous young persons participate in the design and implementation of family planning and contraception programmes, taking into account their cultures and ways of life. The Committee also requests the Government to take the necessary measures to prevent ill treatment of indigenous and Afro-Mexican women who have recourse to obstetrical care and to continue promoting respect for traditional birth-giving within the framework of the national health system.***

***Article 6. Consultation.*** In its previous comments, the Committee noted the protocol for the implementation of consultations with indigenous peoples and communities, approved in 2013 by the National Commission for the Development of Indigenous Peoples, and requested the Government to continue providing information on the progress made in the adoption of legislation on consultation. The Government indicates that the protocol is a general document establishing principles and methodological and technical procedures applicable to a range of situations. Based on the protocol, the INPI prepared and published in March 2019 a specific protocol on the consultation of indigenous and Afro-Mexican peoples on the National Development Plan 2019–24, which envisages a phase of information, discussion, consultation and agreement, and follow up. The Committee notes that, in accordance with the Act establishing the National Indigenous Peoples Institute, the INPI will be the technical body in prior, free and informed consultation processes on legislative and administrative measures at the federal level (section 4); and that the National Programme for Indigenous Peoples 2018–24 envisages the preparation of a legislative initiative on free, prior and informed consultation of indigenous peoples.

The Committee refers to its 2018 general observation, in which it recalled the importance of engaging in prior consultation with the peoples covered by the Convention before the adoption of legislation or the establishment of consultation machinery. ***Under these conditions, the Committee requests the Government to provide information on the progress made in the process of the adoption of legislation on consultation, with an indication of the measures adopted to ensure that full and informed consultations are held with indigenous peoples and the Afro-Mexican people in this regard. While legislation is being adopted, the Committee requests the Government to continue providing information on the consultation processes undertaken on the basis of the protocol for the implementation of consultation with indigenous peoples and communities and their results, with an indication of the manner in which the peoples concerned participate through their representative***

*institutions, as well as the difficulties encountered in the implementation of such processes and the measures taken by the INPI to resolve them. Please also provide information on the implementation of the agreements concluded within the framework of the consultation process on the National Development Plan 2019–24.*

*Consultation on the constitutional and legislative reform on indigenous and Afro-Mexican rights.* The Committee notes with *interest* the process of dialogue and consultation on constitutional and legislative reform on indigenous and Afro-Mexican rights held between June and August 2019, through 54 regional round tables, covering 68 indigenous peoples and the Afro-Mexican people. The process, under the responsibility of the Ministry of the Interior and the INPI, had the objective of gathering views and proposals on the constitutional reform initiative and the corresponding regulations from indigenous peoples and the Afro-Mexican people. Based on the consultations, proposals were made which include the constitutional recognition of indigenous peoples as subjects of public law, as well as the recognition of the special relationship of indigenous peoples with their lands, their right to political participation, representation and consultation, and the rights of displaced indigenous persons. The proposals were delivered to the President of the Republic in August 2019 as a basis for the preparation of constitutional and legislative reform process. ***The Committee requests the Government to provide information on the manner in which the proposals made by indigenous and Afro-Mexican peoples during the dialogue and consultation process on the constitutional and legislative reform on indigenous and Afro-Mexican rights have been taken into account in the constitutional and legislative reform process in relation to their rights and to measures that directly affect them.***

*Articles 14 and 18. Land disputes. Incursions.* The Committee previously noted various disputes relating to the occupation of lands involving indigenous communities and requested the Government to provide information on the measures adopted to ensure the effective protection of the rights of indigenous peoples to the lands that they have traditionally occupied and to resolve claims in this regard. The Government provides various examples of land disputes between communities that have been resolved through the intervention of the Office of the Agrarian Prosecutor. The Committee notes that in March 2017 the Inter-American Court of Human Rights adopted provisional measures in favour of the members of the Choréachi indigenous community of the Sierra Tarahumara in the State of Chihuahua in view of the situation of violence caused by attempts by criminal organizations to occupy the community's lands. It also notes that, in her report on Mexico in 2018, the United Nations Special Rapporteur on the rights of indigenous peoples referred to the situation of the Cucapa people in Baja California, whose traditional activities have been restricted by the creation of a protected area and the presence of illegal fishing (A/HRC/39/17/Add.2, paragraph 28). ***The Committee requests the Government to intensify its efforts to safeguard the possession by indigenous peoples of the lands that they traditionally occupy; to safeguard their rights to use lands to which they have traditionally had access for their traditional activities and subsistence; and to prevent and sanction any intrusion in the lands of the peoples concerned. The Committee requests the Government to provide information on the results of the measures adopted in this regard, particularly in relation to the situation of the indigenous community of Choréachi in the State of Chihuahua and the Cucapa community in the State of Baja California. The Committee also requests the Government to provide updated information on the measures adopted for the definitive resolution of the land dispute relating to the community of San Andrés de Cohamiata, to which it referred in its previous comments.***

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

## Panama

### **Indigenous and Tribal Populations Convention, 1957 (No. 107) (ratification: 1971)**

*Prospects for ratification of the most up-to-date instrument: Indigenous and Tribal Peoples Convention, 1989 (No. 169).* In its previous comments, the Committee noted the agreement signed by the Government and indigenous leaders relating to the ratification of Convention No. 169, and asked the Government to continue providing information on the next steps for carrying out this ratification. The Government indicates in its report that it has held meetings with representatives of five *comarcas* (indigenous administrative areas) and two indigenous peoples pursuant to the Government's commitment to revise the Convention. It points out that although Convention No. 169 has not yet been ratified by Panama, the national legislation relating to recognition of the rights of indigenous peoples is well advanced and significant progress is being made in the regulation of standards aimed at protecting the rights established therein. In this regard, the Committee notes with *interest* the adoption on 2 August 2016 of Act No. 37 providing for the consultation of indigenous peoples and obtaining their free and informed prior consent. This Act imposes the obligation on the Government to consult indigenous peoples whenever legislative and administrative measures are planned that directly affect their collective rights, physical existence, cultural identity, quality of life or development, including plans, programmes and projects for development at the national, regional and *comarca* level which directly affect these rights. At the institutional level, the Committee also duly notes the establishment in 2017 of the National Round Table for Indigenous Peoples, and the creation by Decree No. 203 of 27 July 2018 of the National Council for the Comprehensive Development of Indigenous Peoples, an advisory body comprising the Ministry of the Interior, representatives of indigenous peoples and a representative of indigenous women. It notes that the purpose of these mechanisms is to facilitate the participation of representatives of indigenous peoples in the formulation and implementation of public policies which concern them and affect their development. The Committee welcomes the

Government's efforts to establish a legal and institutional framework in accordance with the objectives of Convention No. 169. The Committee recalls that the Governing Body, at its 328th Session (October–November 2016), requested the Office to commence follow-up with the member States currently bound by Convention No. 107 with a view to: (i) encouraging them to ratify Convention No. 169, as the most up-to-date instrument in this subject area, which would result in the automatic denunciation of Convention No. 107; and (ii) collecting information from those member States with the aim of better understanding the reasons for their non-ratification of Convention No. 169 (see GB.328/LILS/2/1(Rev.)). *The Committee therefore encourages the Government to consider the decision adopted by the Governing Body at its 328th Session and, following up on the above-mentioned initiatives, to examine the possibility of ratifying Convention No. 169.*

*Articles 2 and 5(b) of the Convention. Development of coordinated and systematic programmes.* “Plan for the comprehensive development of the indigenous peoples of Panama (PDIPIP)”. In its previous comments, the Committee noted the agreement signed by the Government and indigenous leaders concerning the implementation of the “Plan for the comprehensive development of the indigenous peoples of Panama (PDIPIP)” and asked the Government to continue providing information on the implementation of coordinated and systematic programmes, with the participation of the indigenous peoples concerned. The Government explains that the background to the PDIPIP follows agreements concluded with the authorities of the indigenous peoples to resolve the dispute that existed between the Government and the Ngöbe-Buglé people and that it was drawn up with the participation of the 12 representative structures of the indigenous peoples of the country. The PDIPIP has three main components – political/judicial, economic and social – and is defined by the Government as a long-term process requiring constant review and evaluation. The Government indicates that it entered into a loan agreement with the World Bank in May 2018 in order to support the implementation of the PDIPIP and in turn strengthen its own capacity and that of the indigenous authorities in that process. In this regard, the document containing the socio-cultural evaluation for the PDIPIP implementation support project, published by the World Bank and the Ministry of the Interior on 17 January 2018, states that, as a result of participatory processes with the indigenous peoples, potential social risks and impacts have been identified, together with measures to avoid and alleviate them. The Committee notes that, by Executive Decree No. 202 of 27 July 2018, a steering committee was established for the project entitled “Comprehensive development plan for the indigenous peoples of Panama”, comprising ministerial and indigenous peoples representatives, as the high-level political decision-making and coordinating body to ensure the smooth implementation of the development plan. *The Committee hopes that the Government will continue to make every effort and take the necessary measures to ensure the effective implementation of the three components of the “Comprehensive development plan for the indigenous peoples”, and requests it to provide information on the results achieved. The Committee also requests the Government to indicate whether the PDIPIP has been revised or evaluated in conjunction with the indigenous peoples concerned. The Committee further requests the Government to indicate in what manner the National Round Table for Indigenous Peoples collaborates in the formulation and implementation of development policies intended for indigenous peoples.*

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** (Egypt, Iraq, Panama, Tunisia); **Convention No. 169** (Plurinational State of Bolivia, Brazil, Colombia, Dominica, Honduras, Mexico).

The Committee noted the information supplied by the following State in answer to a direct request with regard to **Convention No. 107** (Malawi).

## Specific categories of workers

### Colombia

#### **Domestic Workers Convention, 2011 (No. 189) (ratification: 2014)**

The Committee notes the observations of the National Employers Association of Colombia (ANDI) and the International Organisation of Employers (IOE), received on 31 August 2018, in which they place emphasis on the measures adopted in recent years to protect and extend the rights of men and women domestic workers. The Committee also notes the observations of the Confederation of Workers of Colombia (CTC), the Single Confederation of Workers of Colombia (CUT) and the General Confederation of Labour (CGT), received on 1 September 2018, and the Government's response, received on 19 November 2018. ***The Committee requests the Government to provide its comments on the observations of the ANDI and the IOE.***

***Article 6 of the Convention. Fair terms of employment and decent working conditions.*** In its previous comments, the Committee requested the Government to take the necessary measures to amend sections 77 and 103 of the Substantive Labour Code to ensure that domestic workers have the same trial period, the same period of notice for the termination of fixed-term contracts and the same guarantees as other workers. It also requested the Government to indicate the measures envisaged or adopted to ensure that domestic workers, like other workers generally, enjoy fair terms of employment and decent working conditions. The Committee notes that the Government indicates once again that the labour rights and guarantees recognized in national legislation apply equally to domestic workers, on the basis, among other provisions, of Article 13 of the Constitution, which sets out the principle of equality, and Article 53, which establishes the minimum labour rights recognized for all workers. The Committee notes with *interest* ruling No. C-028/19, of 30 January 2019, of the Constitutional Court of Colombia, which declares inapplicable section 77(2) of the Substantive Labour Code, which provided for the presumption of a trial period of 15 days in the contracts of domestic workers, while subsection 1 did not establish any such presumption for other workers, but provided that the trial period was to be set out in writing. Section 77(2) was declared inapplicable on the grounds that it was incompatible with Articles 13 and 53 of the Political Constitution. The Constitutional Court emphasized in particular that “the precept included differentiated treatment in respect of domestic work, which is undertaken mainly by women with few means and a social protection deficit”. It also found that “as it is established that the majority of their labour relations are agreed through verbal contracts, in which the presumption of the trial period applies, which is not the case of employees engaged in other types of work, in contravention of the principles set out in Article 53 of the Constitution respecting equality of opportunities and the performance of work under decent and just conditions.” With regard to section 103 of the Substantive Labour Code, which provides for a written notice period of 30 days for the termination of fixed-term contracts, except in the case of domestic workers, for whom there is a notice period of only seven days, the CUT, CTC and CGT indicate that no measures have been adopted to amend the section with a view to guaranteeing equality for domestic workers in relation other workers with regard to the period of notice required for the termination of contracts of employment. ***The Committee therefore reiterates its request to the Government to take the necessary measures to amend section 103 of the Substantive Labour Code with a view to ensuring that domestic workers benefit from the same period of notice for the termination of fixed-term contracts, as well as the same guarantees as other workers. The Committee also requests the Government to continue providing information on the measures adopted or envisaged to ensure in practice that domestic workers, like workers generally, enjoy fair terms of employment and decent working conditions, as envisaged in Article 6 of the Convention.***

***Articles 6, 9(a) and 10. Workers who reside in the household. Decent living conditions that respect their privacy. Equality in respect of other workers in relation to hours of work and overtime compensation.*** In response to its previous comments, the Government indicates that domestic work can take three forms: internal, that is those who reside in the household; external, that is those who do not reside in the household; and daily, that is domestic workers who do not reside in the household and only work certain days of the week, for one or more employers. The Government adds that the working hours of domestic workers therefore vary depending on the form of their work. In this regard, the Government reiterates that the ordinary maximum hours of work established by law for external or daily domestic workers are eight in the day and 48 in the week. All hours that are worked in addition to the maximum number of hours established are considered to be overtime and paid as such. With regard to domestic workers who reside in the household, the Government refers once again to ruling No. C-372 of 1998 of the Constitutional Court, under the terms of which such domestic workers may not work more than ten hours a day. According to the High Court, when the hours of work a domestic worker are over that limit, such hours must be paid as overtime, under the terms of the labour legislation. The Government adds that the domestic worker and the employer may agree fewer hours than the legal maximum, in which case the wages paid will be proportional to the hours worked. The CUT, CTC and CGT observe that measures have not been taken to eliminate the discrimination existing for domestic workers who reside in the household in relation to other workers with regard to maximum hours of work and overtime pay. The workers' organizations reiterate that in practice such different treatment implies that, due to the exception to maximum working hours establishing a maximum of ten hours a day for live-in domestic workers, the additional two hours that they may work, are not included and therefore not paid as overtime, compared to the situation of other workers, for whom maximum daily hours of work are set at eight. In its reply, the Government reiterates that the limit of ten hours of work a day established by the case law of the Constitutional Court is applied to live-in domestic workers, while the normal

maximum statutory working time of eight hours a day is applied to other domestic workers. The Government adds that, although the maximum weekly limit of 48 hours set out in section 161 of the Substantive Labour Code does not apply to live-in domestic workers, Sunday is the compulsory day of rest for all workers. In the event that work is performed on a Sunday, the appropriate supplement has to be paid, and if more than three Sundays are worked in a month, the employer is required to grant the worker the corresponding compensatory rest. Finally, the Committee notes that the Government has not provided information in its report on the existence of provisions regulating the quality of food, the nature of accommodation or the right to privacy that must be enjoyed by domestic workers who reside in the household. The Committee recalls that, under the terms of *Article 9(a)* of the Convention, each member shall take measures to ensure that domestic workers are free to reach agreement with their potential employer on whether to reside in the household. When workers reside in the household, legal provisions on their living conditions are an essential component of the promotion of decent work for them. The Committee considers that the legislation should set out the obligations of employers in this respect. ***The Committee once again requests the Government to take the necessary measures to guarantee equal conditions in terms of normal hours of work between domestic workers who do not reside in the household and those who do. The Committee also once again requests the Government to provide information on the measures adopted to ensure that domestic workers who reside in the household receive overtime compensation under equal conditions with other workers. It also requests the Government to provide detailed information on the manner in which the quality of food, the nature of their accommodation and the right to privacy of domestic workers who reside in the household are regulated.***

## Costa Rica

### ***Domestic Workers Convention, 2011 (No. 189) (ratification: 2014)***

The Committee notes the observations of the Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP), supported by the International Organisation of Employers (IOE), received on 1 September 2018. The Committee also notes the Government's replies to these observations.

*Article 11. Minimum wage.* In its previous comments, the Committee noted that section 105(a) of the Labour Code provides that the wage of domestic workers must correspond to at least the statutory minimum wage for the category as established by the National Wage Council. However, the Committee observed that Decree No. 40022-MTSS fixing minimum wages for the private sector established a minimum wage for domestic workers below the minimum wage set for unskilled workers (which corresponded to the minimum protection wage or *salario mínimo minimorum*). The Committee also noted that, according to a study by the ILO on the proposed reform for the application of minimum wages to domestic work in Costa Rica, the minimum wage received by domestic workers is in no case sufficient to exceed the poverty or material deprivation thresholds. This study recommended that the Government, inter alia, promote a progressive increase in the minimum wage for domestic workers to close the gap with the minimum wage. In this regard, the Committee requested the Government to provide information on the effect given to these recommendations and to indicate how the minimum wage of domestic workers compares to that in other sectors. In this respect, the Government indicates that, pursuant to an agreement concluded between the Association of Domestic Workers (ASTRADOMES) and the Ministry of Labour in July 2014, since the second half of 2014, additional wage increases have been applied to the minimum wage established for domestic work in relation to that established for other workers in the private sector. The Committee notes with *interest* the approval on 24 June 2019 by the National Wage Council of resolution No. CNS-RG-2-2019, concerning the closing of the wage gap between domestic work and unskilled work. The resolution was approved following consultations with various stakeholders, including representatives of ASTRADOMES and employers of domestic workers, and the Costa Rican Social Security Fund (CCSS). The resolution indicates that the daily minimum wage established for domestic work is 41.47 per cent of that provided for in the Decree on minimum wages for unskilled workers. In this context, subparagraph (a) of the resolution establishes that the gap will be eliminated within 15 years from 2020, through the introduction of 15 additional annual adjustments to the minimum wage for domestic work in addition to the general adjustments introduced by the minimum wage decrees. Subparagraph (d) indicates that “in the event that, upon application of the final additional adjustment, there is still a difference between the minimum daily wage for domestic work and that for unskilled workers, this difference shall be eliminated and an equal minimum daily wage will be decreed for domestic work as for unskilled workers”. Lastly, subparagraph (f) provides for the performance by the National Wage Council of a technical and economic analysis of the country's social, economic and labour conditions in 2025 to determine whether it would be viable to reduce the time period of 15 years to eliminate the wage gap. If so, the National Wage Council could agree to the amendment of the agreement on the time period and additional adjustments. ***The Committee recalls the obligation under the Convention to take measures to ensure not only that domestic workers enjoy minimum wage coverage, but also that remuneration is established without discrimination. It notes, however, that the very long timeframe – 15 years – established by the resolution for closing the substantial gap between the wages for domestic workers and those for unskilled workers seems unduly long. While acknowledging that the resolution also establishes a process by which the National Wage Council may, through a reconsideration of the social, economic and labour conditions of the country shorten this period, the time frame for this process – 6 years – is itself lengthy. The Committee recognizes that it may be necessary to introduce reforms to narrow the wage gap over a period of time; however, it encourages the Government to accelerate these time frames. The Committee requests the Government to continue providing updated information on any progress made in this regard.***

**The Committee also requests the Government to provide updated statistical information, disaggregated by sex, on the impact of these adjustments on the wages that domestic workers receive in practice. The Committee further requests the Government to provide a copy of any technical and economic analysis provided for in subparagraph (f) of resolution No. CNS-RG-2-2019.**

**Article 14. Access to social security.** The Committee notes the approval on 6 July 2017 by the Board of Directors of the Costa Rican Social Security Fund of the regulations for the registration of employers and the contributory insurance scheme for domestic workers. These regulations enable the coverage of domestic workers by health, invalidity, old-age and survivors' insurance, whether they carry out domestic work as a principal or supplementary activity, full-time or part-time, on a daily or hourly basis. The Government indicates that representatives of the employers and workers, including the UCCAEP and ASTRADOMES, the ILO and the National Institute for Women (INAMU) participated in the drafting of the regulations. The Committee observes that section 2(1) of the regulations provides that "a domestic worker means any person who performs the work of cleaning, cooking, washing, ironing and other household or private residence work, including non-specialized care of persons, whether as a principal or supplementary activity. The performance of this work shall be for the benefit of a physical employer, under conditions of subordination and remunerated regularly, and shall not generate a profit for the employer." Section 3 establishes the employer's obligation to report, on a monthly basis, the total wages earned by his or her domestic worker, including ordinary wages, overtime pay and payments in kind, where applicable. Section 7 establishes the requirements for coverage at the minimum contribution threshold, in cases where employers report wages earned by their domestic worker that are lower than the minimum contribution threshold. Section 8 regulates situations in which domestic workers work for several employers and establishes that contributions shall be distributed proportionally based on the proportion of the reported wage paid by each employer. Sections 10 and 11 provide for the temporary suspension and definitive exclusion from the reduced minimum contribution threshold, respectively, in the event of non-compliance with any of the obligations established in the regulations or the incorrect insurance of the domestic worker. The Committee also notes the various measures implemented with a view to raising awareness of the new special social security scheme for domestic workers, such as the organization of information meetings for domestic workers, the training of INAMU staff and the dissemination of information through the media. Lastly, the Committee notes the detailed statistical information provided by the Government, which demonstrates the positive impact of the approval of the above-mentioned regulations on the number of domestic workers registered with the Costa Rican Social Security Fund. According to the centralized contribution collection system of the Costa Rican Social Security Fund, between 9 August 2017 and January 2018, some 2,884 domestic workers were insured, 98 per cent of whom were women and 50 per cent of whom worked part-time. The Government also indicates that, before the approval of the regulations, 204 domestic workers were insured each month, rising to 478 domestic workers a month after the approval of the regulations. With regard to the payment of contributions, the Government indicates that, following the approval of the regulations, the percentage of all domestic workers covered increased from 10.9 to 14.4 per cent between the second and fourth quarters of 2017. **The Committee requests the Government to continue providing detailed information on the measures adopted or envisaged with a view to ensuring the access of all domestic workers to social security. The Committee also requests the Government to continue providing statistical information, disaggregated by sex, on the number of domestic workers registered with the Costa Rican Social Security Fund.**

## Ecuador

### **Plantations Convention, 1958 (No. 110) (ratification: 1969)**

**Application in practice.** The Committee takes note of the human rights compliance report of the Ombudsman's Office of 18 February 2019 regarding the precarious situation in which workers and their families, including women, children and older persons, live and work on Manila hemp estates owned by a Japanese company. During visits to the camps carried out by members of the Ombudsman's Office between 30 October 2018 and 26 January 2019, it was noted that more than 200 people, most of whom are of African descent, live and work in conditions of extreme poverty and are subject to numerous human rights violations, contrary to the provisions of this Convention. The Committee notes that, according to the above-mentioned report, the company owns the land and is the only beneficiary of the Manila hemp fibre extraction work. In order to avoid formalizing the employment relationship with each of the workers who have lived and worked on its estates, for more than 56 years, the company has implemented a practice by which it rents out plots of land to tenants or contractors who are subordinate to estate administrators and managers, and who are the only ones to have an employment contract with the company. According to the report, such rental agreements run contrary to the prohibition of intermediation under the Labour Code, and their sole purpose is to enable the company to circumvent its legal obligations. The Committee notes that the Ombudsman's Office recorded cases of slavery, racial discrimination and child labour and that the workers lack employment contracts and receive low wages. It was also noted that housing on the camps is ramshackle, old and gloomy, and lacks ventilation, drinking water, electricity and sanitary facilities. In addition, the camps lack access to basic healthcare services, childcare services, schools and other social services, given that they are located in remote areas and the roads and entrances to them are controlled by the company. Lastly, the Committee notes from the information provided by the Government in its replies to the joint communication AL ECU 4/2019, of 3 April 2019, signed by nine special procedures mandate holders of the United Nations Human Rights Council, with respect to the situation of the workers and their families on the estates. In particular, the Government reported on the various measures implemented by the competent authorities to

eliminate and punish identified human rights violations and to restore the rights of the workers and their families. The Government reports that these measures included the temporary closure of the company's premises, and the creation of a Standing Inter-Agency Working Group to address the specific issues arising from the case. ***The Committee requests the Government to communicate detailed updated information on the follow-up given to the infringements identified in the report of the Ombudsman's Office, including measures taken and envisaged to ensure that the workers and their families living on the Japanese company's Manila hemp estates are compensated for underpayment or non-payment of wages suffered and receive compensation for the years during which they were subjected to these violations, and that, going for work, enjoy decent working and living conditions. The Committee also requests the Government to send detailed updated information on the socio-economic conditions on the country's plantations and on the measures taken or envisaged to improve those conditions. The Committee further requests the Government to send updated information on the different categories of worker to whom the Convention applies.***

***Articles 5 to 19 of the Convention. Engagement and recruitment of migrant workers.*** In its previous comments, the Committee noted the Government's indication that migrant workers are recruited directly through the employer rather than through private recruitment agencies, in accordance with section 560 of the Labour Code and the Immigration Law. The Committee also noted that the Ministry of Labour Relations was gathering information on the number of migrant workers, their working conditions and types of plantations on which they worked. In this regard, the Committee requested the Government to provide detailed information on the engagement of migrant workers, through employers and public agencies, and information on the conclusions of the above-mentioned study produced by the Ministry of Labour Relations. The Committee notes the Government's indication that, between 2016 and May 2018, there were 14,240 migrants (1,760 employed) and 236,436 foreigners registered (953 employed) on the page of the *Red Socio Empleo* public employment agency. The Committee notes, however, that the Government does not provide specific information on the engagement of migrant workers on plantations. ***The Committee once again requests the Government to provide specific detailed information on the legislation applicable to the engagement and recruitment of migrant workers on plantations. In addition, the Committee once again requests the Government to provide detailed updated information on the number of migrant workers (disaggregated by sex and age) who work on the plantations, their working conditions and the type of plantations on which they work.***

***Articles 24 to 35. Wages.*** The Committee notes that, for more than ten years, it has been requesting the Government to provide information on the number of plantation workers who receive the minimum wage. In its previous comments in 2015, the Committee also requested the Government to indicate the measures taken or envisaged to eliminate the gap between the basic monthly minimum wage and the cost of a basic basket of goods. The Committee notes the Government's indication that it does not possess information on plantation workers' wages. With respect to the gap between the basic monthly wage and the cost of a basic basket of goods, the Government reports that, according to statistical information from the National Institute of Statistics and Censuses, in 2017 a basic basket of goods cost US\$708.98, while monthly family income stood at US\$700, resulting in a 1.27 per cent drop in consumption. The Committee observes, however, that the Government does not provide specific information on how the price of a basic basket of goods compares with plantation workers' wages. ***The Committee requests the Government to indicate whether it has taken measures to encourage the setting of minimum wages through collective agreements freely entered into by trade unions representing the workers concerned and by employers or employers' organizations, and requests the Government to provide copies of the collective agreements applicable to the sector. The Committee also requests the Government to take the necessary steps to gather information on the application in practice of the minimum wage in the plantation sector, particularly statistical information on the results of labour inspections in this regard. The Committee requests the Government to provide this information once it has been gathered. The Committee also once again requests the Government to provide specific updated information on how the price of a basic basket of goods compares with plantation workers' wages.***

***Articles 36 to 42. Annual holidays with pay.*** For more than ten years, the Committee has been requesting the Government to indicate the measures taken or envisaged in order to harmonize, among other provisions, section 75 of the Labour Code with the provisions of the Covenant. That section enables workers to forgo taking their annual leave over three consecutive years in order to use their accrued annual leave in the fourth year. In this regard, in its previous comments, the Committee recalled that, in line with *Article 41* of the Convention, any agreement to relinquish the right to an annual holiday shall be void. The Government refers to the approval of Ministerial Order No. MDT-2017-0029 of the Ministry of Labour, published in Official Register No. 989 of 21 April 2017, issuing the new Regulations governing special employment relations in the agricultural, livestock and agro-industrial sector. The Government indicates that these Regulations are applicable to plantation workers. The Committee notes that section 1 of the Ministerial Order provides that it governs conditions of work for activities relating to, inter alia, the agricultural sector, which includes tillage and cultivation of the ground and/or plants, including horticultural and banana production. The Committee notes, however, that the Regulations do not govern the paid annual leave system for plantation workers. ***The Committee therefore once again requests the Government to indicate the measures taken or envisaged to bring section 75 of the Labour Code into line with Article 41 of the Convention.***

***Articles 46 to 52. Maternity protection.*** In its previous comments, the Committee requested the Government to indicate whether in national law or practice, in cases where childbirth occurs after the presumed due date, prenatal leave shall always be extended until the actual date of childbirth, without any reduction in postnatal leave, in keeping with

Article 47(5) of the Convention. The Government refers to section 152 of the Labour Code, which provides that all female workers shall be entitled to 12 weeks' paid maternity leave. The Government indicates that the section following section 152 provides that, once the maternity or paternity leave is over, workers shall be entitled to up to an additional nine months' unpaid leave on an optional and voluntary basis. ***The Committee requests the Government to indicate whether plantation workers who give birth after their due dates are entitled, after giving birth, to at least six weeks of the paid leave provided for under section 152 of the Labour Code, in line with the provisions of Article 47 of the Convention.***

***Articles 54 to 70. Right to organize and collective bargaining and freedom of association.*** The Committee recalls that, for more than ten years, it has noted that the conditions in which trade union activities are conducted are extremely harsh, particularly in the banana industry, resulting in a particularly low unionization rate. The Committee also refers to its observation of 2018 relating to the application by Ecuador of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in which it noted the observations of the Trade Union Association of Agricultural, Banana and Rural Workers (ASTAC), according to which Ministerial Orders Nos MDT-029-2017, MDT-074-2018 and MDT-096-2018, which establish new forms of contract for banana plantation workers and agricultural workers, obstruct the effective exercise of the right to collective bargaining in those sectors. Furthermore, the Committee notes the Government's indication that, according to the Integrated System of Labour Organization Registration (SINROL), there are 20 workers' organizations on plantations and in banana companies. ***The Committee requests the Government to send updated detailed information on measures taken or envisaged to guarantee the right to association in practice of plantation employers and workers. The Committee also requests the Government to provide detailed information on the impact of these measures on the exercise of that right, including the number of plantation workers' and employers' organizations registered under the Integrated System of Labour Organization Registration (SINROL).***

***Articles 71 to 84. Labour Inspection.*** In its previous comments, the Committee reiterated its request to the Government to provide statistics on plantation inspections, showing reported infringements of labour provisions (including with regard to working hours, wages, health and safety, maternity leave and child labour) and the penalties imposed on perpetrators. The Committee also requested the Government to indicate measures taken or envisaged to ensure that labour inspections are no longer conducted in a sporadic manner and that labour inspectors' reports are submitted to the relevant authority at least once a year. The Government indicates that in 2017, the Cuenca Regional Directorate of Labour and Public Service conducted 25 labour inspections on banana plantations, which confirmed due compliance with the labour legislation, including in relation to the prohibition of child labour and occupational safety and health (OSH) standards. The Government added that those inspections are conducted in coordination with the Regional Directorate Departments for Occupational Safety and Health and for the Prevention and Eradication of Child Labour (PETI). The Committee notes, however, that the Government does not provide information on the number of banana plantations in the Cuenca region, or whether the 25 inspections mentioned were announced or unannounced, the duration of the inspections, or the outcomes of these. The Committee further notes that the Government does not provide information on inspections conducted in other parts of the country. The Government also indicates that, between June 2017 and 2018, training and awareness-raising were conducted, in which 1,459 people were trained on issues such as legislation on working times, wages, maternity leave and the prohibition of child labour. The Government further indicates that 1,966 individuals took part in various activities, such as training, workshops and labour inspections, in order to raise awareness and promote compliance with OSH standards. The Committee notes, however, that the Government does not specify whether those activities were conducted with regard to working conditions on plantations. ***The Committee requests the Government to send detailed updated information on the inspections conducted on plantations throughout the country, showing reported infringements of labour provisions (especially in areas such as working hours, wages, health and safety, maternity leave and child labour) and the penalties imposed on perpetrators. The Committee once again requests the Government to provide information on the measures taken or envisaged to ensure that labour inspections are no longer conducted in a sporadic manner and that labour inspectors' reports are submitted to the competent authority at least once a year, in accordance with Article 84 of the Convention.***

***Articles 85 to 88. Housing.*** In its previous comments, the Committee requested the Government to continue providing information on measures adopted to promote adequate housing for plantation workers and to indicate the minimum standards and specifications for housing provided to plantation workers under the Rural Housing Programme. The Committee notes the Government's reference to the adoption of Ministerial Order No. AM 027-15 of 24 August 2015, issuing the Regulations for the operation of the housing incentives system (SIV). The Regulations set out the conditions, requirements, procedures and approvals under the SIV in order to facilitate access to decent housing for various population groups. The Government also refers to objective 1 of the 2017-2021 "Lifelong Rights" National Development Plan for "ensuring a life of dignity and equal opportunity for all", whose programme includes providing vulnerable groups with housing of at least 49m<sup>2</sup>, ensuring universal accessibility. Under that objective, Ministerial Order No. MIDUVI 002-2018-05-16 was adopted on 16 May 2018, approving the policy and guidelines for the development of social housing projects and its beneficiaries, and establishing the requirements and procedures for the construction of social housing and the eligibility of its beneficiaries. The Committee notes, however, that the Government does not indicate whether plantation workers are among the groups benefiting from these measures and does not include any specific information in its report about minimum housing standards and specifications established for plantation workers. ***The Committee therefore requests the Government to provide specific information on measures taken to promote adequate housing for plantation workers and to indicate the minimum standards and specifications for housing provided to plantation workers.***

*Articles 89 to 91. Medical care.* In its previous comments, the Committee noted that, according to various sources, banana plantation workers were highly exposed to pesticides during crop spraying. The Committee therefore reiterated its request to the Government to indicate the measures taken or envisaged to provide appropriate medical care for plantation workers and their families. The Committee notes the Government's reference to the adoption of the Banana Industry Health and Safety Manual under the Banana Occupational Health and Safety Initiative (BOHESI). A number of stakeholders helped produce the manual, including the Ministry of Labour, the Ecuadorian Social Security Institute (IESS) and the Association of Ecuadorian Banana Exporters (AEBE). The manual comprises two parts: (i) a technical manual to provide an overall understanding of the measures necessary to improve OSH; (ii) a specific manual intended to ensure workers are familiar with basic safety measures. The main aim of the manual is to generate an OSH culture in the Ecuadorian banana industry, through training and promotional programmes so that employers, workers, suppliers and contractors are aware of and implement control measures aimed at ensuring an appropriate and conducive working environment, ensuring workers' health, integrity, safety, hygiene and well-being. The manual therefore provides, among other activities, for publicizing its prevention and control measures, and for the creation of OSH committees. The Government reports that the manual is available for banana industry employers and producers on the Ministry of Labour's e-learning platform. The Government also indicates that the Ministry of Labour is developing a proposal to encourage the production of health and safety manuals covering various economic activities involving plantations. However, the Committee notes that the Government does not provide any information on measures taken or envisaged to provide medical care to plantation workers and their families. ***The Committee once again requests the Government to provide detailed updated information on the measures taken or envisaged to provide appropriate medical care to plantation workers and their families.***

## El Salvador

### ***Nursing Personnel Convention, 1977 (No. 149) (ratification: 2013)***

The Committee notes the observations of the Trade Union of Nursing Professionals, Technicians and Auxiliaries of El Salvador (SIGPTEES), received on 8 February and 12 September 2016. The Committee also notes the Government's reply to these observations, received on 9 February 2017.

*Article 2 of the Convention. Policy concerning nursing services and nursing personnel.* The Committee notes with **interest** the adoption of the national policy on nursing care by means of Order No. 273 of 5 February 2016. The Government states that this policy was formulated with the participation of various bodies, including: the Nursing Unit at the Ministry of Health; SIGPTEES; the Nursing Supervisory Board (JVPE); and the National Association of Salvadoran Nurses. The Government indicates that the policy has eight areas, each with a set of goals, strategies and lines of action. The goals include: (i) developing actions in planning, organization, management and evaluation aimed at improving results in nursing care; (ii) promoting evidence-based nursing care which is comprehensive, ongoing, of high technical quality, safe and humane; (iii) providing nursing personnel with possibilities and conditions for acquiring new health knowledge and up-to-date approaches to the discipline; and (iv) establishing a system of information and computerization which makes visible the outcomes of nursing care for public health and the development of nursing as a science. The Committee observes that the policy also includes the following lines of action: updating and monitoring the application of the legislation in force in order to regulate nursing practice (1.3.1); ensuring that the complexity of duties assigned to nursing personnel are consistent with their level of training, position and professional competence (1.3.3); and promoting the professionalization of nursing instruction (3.1.3). The Committee also notes the adoption in December 2016 of the "National nursing care action plan", which sets out the specific actions to be undertaken to promote the professionalization of nursing in its various areas of implementation in order to respond to the demand for high-quality public healthcare. The action plan also establishes a set of indicators to measure and evaluate the results achieved, response times, and the various entities responsible for implementation. ***The Committee requests the Government to send detailed, up-to-date information on the measures taken in the context of the "National nursing care action plan" and its impact in practice, particularly measures designed to provide nursing personnel with education and training appropriate to the exercise of their functions; and employment and working conditions, including career prospects and remuneration, which are likely to attract persons to the profession and retain them in it.***

*Article 4. Requirements for the practice of nursing.* In reply to the Committee's previous comments, the Government indicates that on 10 September 2012 the Health Commission was notified of the draft Bill on nursing practice, which was drawn up at the initiative of the JVPE. The Government reports on the various actions implemented by the Health Commission with a view to considering the adoption of the draft Bill, such as meetings with JVPE representatives and the request for technical reports. The Government states that the draft Bill is still being studied by the Health Commission. ***The Committee requests the Government to take the necessary steps to ensure the adoption of the draft Bill of January 2012 on nursing practice, to report on progress made towards that end, and to send a copy of the legislation once it has been enacted.***

*Article 5. Consultations with nursing personnel.* The Committee notes that the SIGPTEES reports in its observations that it has not received any reply to its repeated requests made in 2015 for a meeting with the Minister of Health with a view to presenting a set of demands regarding regulation of the conditions of work of nursing personnel. In this regard, the Committee notes that the SIGPTEES attaches to its observations the set of demands, in which, inter alia, it

requests: (i) a meeting with the Minister of Health; (ii) the formulation of a nursing services and personnel policy, in accordance with *Article 2* of the Convention; (iii) standardization of conditions for processing, review and resources relating to leave, free days and deductions for nursing personnel; and (iv) measures to revise procedures for the recruitment, transfer and reassignment of nursing personnel in order to ensure transparency in all stages (start, processing and conclusion). In its reply to these observations, the Government indicates that: (i) bilateral and working meetings have been held with the SIGPTEES, including monthly meetings in the context of the Inter-Institutional Commission for the National Health System (SNS); (ii) the national nursing policy was adopted in 2016, with the SIGPTEES involved in its formulation; (iii) the conditions governing leave, free days and deductions of nursing personnel are the same as those established for other public employees in the legislation (Act concerning rest days, vacations and leave of public employees); and (iv) the system for the recruitment and transfer of nursing personnel is governed by the procedures set forth in sections 20–28 and 37 of the Civil Service Act and the internal regulations and manuals of the Ministry of Health and other health sector institutions relating to human resources. With regard to the latter, the Government also indicates that the management of nursing posts is undertaken each year at the time of drawing up the budget, on the basis of needs forecasts for the different national hospitals and health regions. The Government adds that it has not received any complaints regarding flaws in nursing recruitment or in the management of nursing posts. The Committee also notes that the SIGPTEES claims that on 26 November 2015 the SNS Inter-Institutional Commission, composed of institutions and workers' organizations in the sector, held a meeting recording the closure of the business process which had been under way since 18 February 2015 with the purpose of ensuring compliance with the Convention. The SIGPTEES objects to the fact that this record was adopted without being signed or notified according to the legally established procedure. The Government indicates that a copy of the closure instrument was given to all participants in the process, including the SIGPTEES. The Government also states that during the above-mentioned meeting a comparative chart of the national legislation was adopted, specifying the various national provisions guaranteeing the rights of nursing personnel, in accordance with *Article 6* of the Convention. Lastly, the SIGPTEES indicates that nursing personnel do not have the same rights of freedom of association as other workers, regarding aspects such as the granting of leave for representatives of workers' organizations. In addition, it refers to the decision of 13 November 2015 of the Fourth Labour Court (ref. NUE 12394-15-DV-4LB1/MY (851/2015)), declaring that the demonstration held by nursing personnel during their free time constituted an illegal strike. In this regard, the Committee indicates that such matters will be examined in the context of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). ***The Committee requests the Government to provide detailed information on the measures taken or contemplated to ensure the participation of nursing personnel in the planning of nursing services and consultation with such personnel on decisions concerning them.***

*Article 6. Conditions of work.* The Committee notes that the SIGPTEES reports that nursing personnel do not receive any extra pay for overtime, for dangerous or unhealthy tasks, night work or public holidays on which they work. The SIGPTEES claims that the Ministry of Health does not provide nursing personnel recruits with uniforms or food. It also indicates that nursing personnel are entitled to only three days' paternity leave. However, the Committee notes that the SIGPTEES does not specify whether the right to three days' paternity leave for nursing personnel is per year or per month, and whether this is equivalent to what is established for other workers. ***The Committee requests the Government to send detailed, up-to-date information on the manner in which it is ensured in practice that nursing personnel enjoy conditions of work at least equivalent to those of other workers, including with regard to extra pay for overtime, dangerous or unhealthy tasks, night work and work on public holidays, and with regard to paternity leave.***

*Article 7. Occupational safety and health.* The Committee observes that the goals of the national nursing care policy include improving working conditions for nursing personnel to ensure that they can perform their tasks without physical, psychological or social risks. In this regard, the policy establishes the following lines of action: promoting compliance with, and the application of, the laws and regulations concerning occupational safety and health (7.2.1); and modernizing systems and measures for protection against risks and harm to health (7.2.2). ***The Committee requests the Government to send up-to-date information on the nature and impact of the measures taken in the context of the "National nursing care plan" to guarantee the occupational safety and health of nursing personnel, including their protection against infectious diseases, such as HIV and AIDS.***

*Application in practice.* The Committee notes that, according to the information available in the draft of the "National nursing care plan", in February 2015 there were 29,622 persons enrolled in the JVPE register (18.40 per cent were graduates, 22.75 per cent were "technologists" (advanced diploma), 37.37 per cent were "technicians" (intermediate diploma) and 21.48 per cent were nursing auxiliaries. The SIGPTEES reports that in many hospitals there is a ratio of one nurse for 50 to 60 patients. ***The Committee requests the Government to provide detailed, up-to-date information on the application of the Convention in practice, including statistics on the numbers of nursing personnel – disaggregated by sex, age, sector of activity, level of training and functions – and statistics on the ratio of nursing personnel to population, the number of persons entering and leaving the profession each year, the measures taken to attract persons to the profession, and copies of official reports and studies relating to nursing services. The Committee also requests the Government to provide information on any practical difficulties encountered in the application of the Convention, such as the shortage or migration of nursing personnel.***

## Paraguay

### **Domestic Workers Convention, 2011 (No. 189) (ratification: 2013)**

*Articles 3(2)(b) and (c), and 4. Forced labour. Abolition of child labour.* The Committee recalls that, for more than ten years in its comments regarding the application of the Worst Forms of Child Labour Convention, 1999 (No. 182), it has been requesting the Government to intensify its efforts to combat the exploitation of domestic child labour within the context of the *criadazgo* system. In addition, several United Nations human rights bodies have repeatedly drawn the attention of the Government to the need to eradicate and criminalize the practice of *criadazgo*. The Committee notes that, according to the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, of 20 July 2018, child labour was prohibited under Act No. 5407 of 2015. However, despite its inclusion in the worst forms of child labour set out in Decree No. 4951, alongside child domestic work, *criadazgo* is not defined in Paraguayan law, nor is it criminalized under the national regulatory framework. Also in relation to *criadazgo*, the Committee recalls that, in 2012, the Comprehensive Act against Trafficking in Persons was approved (Act No. 4788/12). Under this Act, a number of cases of *criadazgo* have been tried as internal trafficking. The report of the Special Rapporteur indicates that, broadly speaking, *criadazgo* refers to the practice whereby a child (usually a girl) from a poor rural household is sent to live with another family in an urban area, ostensibly to secure access to food and education. Once in the new household, the child undertakes domestic work for the receiving families, which is normally not remunerated. According to information received by the Special Rapporteur, there were 46,933 cases of *criadazgo* in Paraguay, accounting for approximately 2.5 per cent of the total number of children under 18 years of age in the country. The Special Rapporteur notes that although there has reportedly been a significant reduction in the number of the children engaged in *criadazgo*, the number of children living away from their parents and engaged in a form of domestic labour is still too high. The report also highlights that children in such cases are often particularly vulnerable to violence and abuse, and there are cases of extreme physical abuse of children by the families for whom they were working, including murder and sexual violence (see A/HRC/39/52/Add.1, paragraphs 37 and 38). The Committee notes the information provided by the Government in relation to the efforts made with a view to eliminating *criadazgo*. In this regard, the Government reports that a bill criminalizing *criadazgo* and the worst forms of child labour is pending discussion in the Senate plenary. The Committee observes that section 1 of the bill defines “*criadazgo*” as “exposing a child or adolescent to residence in a house or other place of residence or dwelling that is not that of the father, mother, guardian or custodian, whether or not he or she performs duties, without a court order authorizing such cohabitation”. Section 2 establishes prison sentences of up to two years or fines for those who submit or expose boys or girls to the practice of *criadazgo*, and of up to five years and fines for cases in which the perpetrator puts the victim’s life or physical wellbeing in danger. In addition, the National Committee for the Eradication of Child Labour approved the “*Criadazgo* Protocol”, in the context of updating the “Interagency Intervention Guide for Workers Under the Age of 18”. The Government indicates that the Ministry of Labour, Employment and Social Security (MTESS), through the General Directorate for the Protection of Children and Young People, has provided training on this protocol for more than 1,200 people in the departments of Alto Paraná, Itapúa, Concepción, Guairá, Boquerón and San Pedro.

The Committee notes, however, that the Special Rapporteur on contemporary forms of slavery noted in the above-mentioned report that, besides closing the legal protection gap relating to *criadazgo*, the Government should address its socioeconomic root causes. According to the report, extreme poverty and a lack of economic alternatives for parents reportedly often influence their decision to allow their children to face potential exploitation in the context of *criadazgo*. The Government reports that it has undertaken awareness-raising campaigns on the worst forms of child labour, including *criadazgo* and unpaid domestic work by children in the household of a third party, with small-scale family agriculture producers, taking into consideration the characteristics of each district and the needs of the population. ***The Committee refers to its comments on Convention No. 182, in which it requests the Government to intensify its efforts to combat the exploitation of child labour, particularly domestic work by children, within the context of the criadazgo system. The Committee also requests the Government to provide information on the status of the bill criminalizing criadazgo and the worst forms of child labour, and to provide a copy once it has been adopted. The Committee further requests the Government to provide detailed and updated information on the measures adopted with a view to ending child labour in domestic work in practice, including training activities for judges, magistrates and labour inspectors, as well as awareness-raising campaigns for the population.***

*Article 10. Equal treatment between domestic workers and workers generally in relation to normal hours of work.* In its previous comments, the Committee requested the Government to provide information on the manner in which it ensures the effective application of the protections related to normal hours of work to domestic workers. The Committee also requested the Government indicate the manner in which it guarantees the right of domestic workers to annual leave, as provided for in section 218 of the Labour Code, and 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 are regarded as hours of work. The Government reiterates that section 13 of Act No. 5407 establishes for domestic workers who do not reside in the household “an ordinary working day of eight hours per day or 48 hours per week when the work is performed during the day, and of seven hours per day or 48 hours per week when the work is performed at night”. The Committee observes, however, that the above-mentioned section does not establish limits on the working day for domestic workers who reside in the household. Regarding the right to annual leave, the Government refers to section 154(b) of the Labour Code, which establishes the right of domestic workers to “paid annual leave like other workers, in terms of duration and cash remuneration”. However, the Committee

notes that the Government does not provide information on the manner in which it ensures the effective application of the protections related to normal working hours. The Government also fails to indicate the manner in which it ensures that periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the employer are regarded as hours of work. In this respect, the Committee notes that section 193 of the Labour Code defines the effective working day as “the period during which the worker remains at the disposal of the employer”. **The Committee requests the Government to adopt the necessary measures with a view to amending section 13 of Act No. 5407 to ensure equal conditions in terms of normal working hours for domestic workers who do not reside in the household and those who do. The Committee reiterates its request to the Government to provide information on the manner in which it ensures the effective application of the protections related to normal hours of work. Lastly, the Committee requests the Government to indicate whether section 193 of the Labour Code applies to domestic workers and, if not, to adopt the necessary measures to ensure that the 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 for their services are regarded as hours of work.**

**Article 11. Minimum wage.** In its direct request of 2017, the Committee noted that section 10 of Act No. 5407 increased the minimum wage for domestic workers from 40 per cent to 60 per cent of the statutory minimum wage established for other workers. The Committee drew the Government’s attention to the fact that that this provision does not ensure the equality of domestic workers with other workers in relation to the statutory minimum wage, and requested the Government to adopt measures in that respect. The Committee also requested the Government to provide copies of court decisions concerning the failure of the employer to pay a domestic worker the minimum wage. The Committee notes that, according to information from the Permanent Household Survey (EPH), as a consequence of this increase in the minimum wage, the percentage of domestic workers who receive remuneration under the minimum wage established for the domestic work sector increased from 16.6 per cent in 2013 to 31.4 per cent in 2017. The Committee notes with *interest* the adoption of Act No. 6338 amending section 10 of Act No. 5407/15 on domestic work, on 2 July 2019. Act No. 6338 directly increases the wages of domestic workers from 60 per cent to 100 per cent of the minimum wage established for other workers. It also provides that persons who perform domestic work in split shifts or working days shorter than the maximum working day cannot receive remuneration proportionally lower than the statutory minimum wage established for domestic work. Lastly, the Committee observes that the Government has not provided information on court decisions concerning the failure of the employer to pay the minimum wage to a domestic worker. **The Committee requests the Government to provide information on the impact in practice of the amendment to section 10 of Act No. 5407/2015, including statistical information on wage trends for domestic workers, disaggregated by sex and age. The Committee reiterates its request to the Government to provide copies of court decisions concerning the failure of the employer to pay a domestic worker the minimum wage.**

## Spain

### **Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172) (ratification: 1993)**

The Committee notes the observations of the Trade Union Confederation of Workers’ Commissions (CCOO) and the General Union of Workers (UGT), received on 2 and 7 August 2018, respectively. The Committee also notes the observations of the Spanish Confederation of Employers’ Organizations (CEOE), included in the Government’s report. The Committee also notes the Government’s replies to these observations.

**Article 8 of the Convention. Application of the Convention.** The Committee notes the detailed information provided by the Government in relation to changes in the regulation of working conditions in the tourism and hospitality sector. The Government refers, among other things, to the adoption of Royal Legislative Decree No. 2/2015 of 23 October, adopting the revised text of the Workers’ Charter, sections 34 to 38 of which regulate working time. In particular, the Committee notes that section 34(2) of the Workers’ Charter provides that “by collective agreement or, in the absence of such an agreement, by agreement between the enterprise and the workers’ representatives, the uneven distribution of working time may be established throughout the year. In the absence of an agreement, the enterprise may distribute 10 per cent of working time unevenly throughout the year.” In this regard, the CCOO maintains that accorded to the enterprise, under the Workers’ Charter to distribute such a high percentage of working hours unilaterally effectively reduces its incentive to conclude an agreement or accord. The Committee also notes the adoption of the Royal Legislative Decree No. 16/2013 of 20 December, which establishes measures to promote stable employment and improve the employability of workers. The Decree introduces amendments to the regulations governing the working conditions of part-time workers, such as the obligation to record their working hours, the prohibition on working additional hours when their contracts are for less than ten hours per week (calculated on an annual basis) and the prohibition on working overtime (except in specific cases covered in section 35(3) of the Workers’ Charter). The CCOO, for its part, points out that while overtime is prohibited, the new legislation provides for the possibility of working voluntary additional hours. The CCOO condemns the reduction of the notice period for additional hours from seven to three days and potentially even less, if agreed by collective agreement, including by agreement with the enterprise. It also points out that the Royal Decree removes the legal obligation to include the distribution of working hours agreed in the contract. The Committee notes, on the other hand, that the CCOO and the UGT refer once again to section 41(1) of the Workers’ Charter, which grants employers unilateral power to modify working

conditions substantially for economic, technical, organizational or production-related reasons. They allege that the section in question allows employers to modify unilaterally important aspects of working conditions, such as working time, the remuneration system and wage rates.

With regard to the collective agreements concluded in the sector, the Government announces the signature of the National Agreement for the hotel sector (ALEH V) on 25 March 2015 by the representative employers' and workers' organizations in the sector. The Government indicates that ALEH V envisages, inter alia, the conclusion of appropriate subsectoral state agreements linked to it, and the creation of a professional card to promote employability and professionalism in the sector. The Committee also notes the information in the Government's report relating to the various collective agreements concluded in the hotel and tourism sector at the regional and provincial levels between 2011 and 2017. However, the CCOO regrets the decline in the number of sectoral collective agreements in the hotel and catering sector, since in August 2018 only 69 per cent of workers in the sector were covered by a valid sectoral collective agreement. Among the reasons for this decline, the CCOO and the UGT refer once again to section 84(2) of the Workers' Charter, which provides that the application of enterprise agreements shall have priority with respect to sectoral collective agreements, especially in relation to wage rates, hours of work and paid annual holiday. The CCOO and the UGT claim that, consequently, working conditions in the sector have deteriorated. They further claim that the outsourcing of activities in the sector through multiservice enterprises, which apply enterprise agreements in order to cut costs, affecting women in particular (mainly hotel housekeepers), has increased. In this regard, the CCOO indicates that since 2015, the courts have rescinded a large number of such agreements in whole or in part as unlawful. In its reply, the Government refers to the "Master Plan for Decent Work 2018–2020", which includes the implementation of various measures to monitor compliance with the law in areas such as overtime, wages and part-time contracts, and strengthens monitoring of the legality of the agreements concluded in the sector. Lastly, the Committee notes the statistical information provided by the Government on violations observed with regard to hours of work and rest and to wages during the labour inspections carried out between 2013 and 2017 by the Labour and Social Security Inspectorate. In this respect, the CEOE contends that the assistance provided by the labour inspection services on knowledge of standards and its proper application should be strengthened, and the involvement of the social partners in the planning of inspection activity should be promoted, in order to ensure its effectiveness. *The Committee requests the Government to continue to provide detailed and updated information on the application of the Convention in practice, including sectoral and enterprise collective agreements, extracts from inspection reports, court decisions and data on the number of workers covered by the measures that give effect to the Convention, disaggregated by sex and age, as well as the number and nature of violations reported. The Committee also requests the Government to send detailed and updated information on the manner in which workers employed in hotels and restaurants are affected by the most recent amendments to the Workers' Charter, including the number and terms of agreements negotiated as well as provide their copies.*

*Hotel housekeepers.* The Committee notes that the Government indicates that hotel housekeepers are one of the groups most affected by new, decentralized forms of work which often lead to significant wage reductions. In this context, the Committee notes the meeting convened by the Employment and Social Security Committee on 19 April 2018 to explain the employment situation of hotel housekeepers in Spain. Representatives of various workers' organizations in the sector appeared before the Senate to provide information on and present proposals for the improvement of their working conditions. The Committee notes that, according to the report of the aforementioned Senate session, hotel housekeepers (also called hotel cleaners or "Kellys") are workers, mostly women immigrants, who clean hotel rooms and common areas of hotels. During the session, it was emphasized that these workers have seen their working conditions deteriorate, due to the growth of outsourcing in the sector through multiservice companies, and the increase in temporary recruitment by temporary employment agencies. During the meeting, the difficulty of hotel housekeepers in organizing themselves in trade unions, losses of more than 40 per cent of wages, losses of established social benefits and sectoral agreements and increased workloads over shorter shifts were highlighted. The Committee also notes that on 30 August 2018, the round table on quality employment in the hotel sector, in which the social partners participated, approved the recognition of occupational diseases related to the work performed by hotel housekeepers. Lastly, the Committee notes that the UGT reports cases of the sale and purchase of employment by purported training companies that offer access to employment as hotel housekeepers in exchange for a fee. *The Committee requests the Government to provide detailed and updated information on the application in practice of the Convention relating to hotel housekeepers. It also requests the Government to provide information in reply to the allegations regarding cases of the sale and purchase of employment as hotel housekeepers (Article 7).*

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: **Convention No. 110** (Côte d'Ivoire, Nicaragua, Sri Lanka); **Convention No. 149** (Azerbaijan, Bangladesh, Belarus, Congo, Ecuador, Egypt, Fiji, Finland, France, New Caledonia, Ghana, Greece, Guinea, Guyana, Kenya, Lithuania, Seychelles, Slovenia, Tajikistan, Ukraine, Zambia); **Convention No. 172** (Fiji, Germany, Guyana, Iraq, Ireland, Lebanon); **Convention No. 177** (Albania, Argentina, North Macedonia, Tajikistan); **Convention No. 189** (Argentina, Plurinational State of Bolivia, Colombia, Costa Rica, Ecuador, Guyana, Ireland, Mauritius, Paraguay, South Africa, Switzerland).

The Committee noted the information supplied by the following State in answer to a direct request with regard to:  
**Convention No. 149** (*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

*Serious failure to submit.* The Committee *regrets* that the Government has not replied to its previous comments. *The Committee expresses the firm hope, as did the Conference Committee in June 2019, that the Government of Albania will comply with its obligations to submit Conventions, Recommendations and Protocols to the competent authorities in the future. It therefore refers to its previous observations and reiterates its request that the Government provide information on the submission to the Albanian Parliament of 24 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), and 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 and 106th Sessions.*

### Angola

*Failure to submit.* The Committee notes that the Government has not provided the information requested in its 2018 observation. *The Committee therefore reiterates its request that the Government provide the information required under Article 19 of the ILO Constitution on the 17 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 and 106th Sessions of the Conference (2003–17),*

### Antigua and Barbuda

*Failure to submit.* The Committee notes that the Government has not responded to its 2018 direct request. It therefore once again recalls the information provided by the Government in April 2014, indicating 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. *The Committee reiterates its request that the Government specify the dates on which the 23 instruments adopted by the Conference from its 83rd to its 101st Sessions were submitted to the Parliament of Antigua and Barbuda. The Committee also once again requests the Government to provide information on the submission to Parliament of 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, and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session.*

## Azerbaijan

*Case of progress.* The Committee notes with *satisfaction* that, on 31 July 2019, 27 instruments adopted at the 79th, 83rd, 84th, 89th, 90th, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th, 106th and 108th Sessions of the International Labour Conference, were submitted to the Parliament (*Milli Mejlis*) of the Republic of Azerbaijan. The Committee further notes the information provided by the Government with regard to the submission on 31 July 2019 to the National Assembly (*Milli Mejlis*) of the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976, adopted by the Conference at its 84th Session, the Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197), and the Employment Relationship Recommendation, 2006 (No. 198), adopted by the Conference at its 95th Session, and the Protocol of 2014 to the Forced Labour Convention, 1930, adopted at the 103rd Session of the Conference. *The Committee commends the Government for the progress made in complying with its submission obligations pursuant to article 19 of the ILO Constitution.*

## Bahamas

*Serious failure to submit.* The Committee notes that the Government has not provided information in response to its 2018 observation. 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 expresses the firm hope, as did the Conference Committee in June 2019, 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 urges the Government to provide information on the submission to Parliament of the 24 instruments adopted by the Conference at 14 sessions held between 1997 and 2017 (85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

## Bahrain

*Serious failure to submit.* The Committee notes the information provided by the Government on 18 July 2019, indicating that it has complied with its constitutional obligations through the submission of the instruments adopted by the International Labour Conference to its Council of Ministers, as the competent authority. It also notes the information provided by the Government on 22 July 2019, indicating that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205) was submitted to the Council of Ministers. The Committee notes that the Government does not specify the date of submission. The Committee once again recalls its previous observations, in which it noted that article 47(a) of the Constitution of Bahrain requires the submission of Conventions to the Council of Ministers, as the body responsible for the formulation of the State's public policy and for following up on its implementation. The Committee further recalls the Government's indication in September 2011 that, with the establishment of a National Assembly – composed of the Consultative Council (*Majlis Al-Shura*) and the Council of Representatives (*Majlis al-Nuwab*) – there was a need to establish a new mechanism for submission of the instruments adopted by the Conference to the National Assembly. The Committee points out 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 the ILO remains available to explore with the national authorities the manner in which a mechanism could be established for the effective submission of instruments adopted by the Conference to the National Assembly in order to ensure the fulfilment of the Government's obligations under the ILO Constitution. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will take immediate steps to submit Conventions, Recommendations and Protocols to the National Assembly. The Committee therefore once again urges the Government to provide full information on the submission to the National Assembly of the 22 instruments adopted by the Conference at 14 sessions held between 2000 and 2017 (88th Session, 89th Session, 90th Session, 91st Session, 92nd Session, 94th Session, 95th Session, 96th Session, 99th Session, 100th Session, 101st Session, 103rd Session and 104th Session. In addition, it requests the Government to indicate the competent authority to which Recommendation No. 205 was submitted, as well as the date of submission. The Committee once again reminds the Government of the availability of ILO technical assistance in meeting its submission obligations.*

## Belize

*Serious failure to submit.* The Committee notes with *concern* 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. *The Committee expresses the firm hope, as did the Conference Committee in June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee requests the Government to provide information on the submission to the National Assembly of the 41 pending instruments adopted by the Conference at 21 sessions held between 1990 and 2017.*

## Plurinational State of Bolivia

*Serious failure to submit.* The Committee notes with **regret** that the Government has not replied to its previous comments. The Committee notes that information has not been provided on the submission to the Plurinational Legislative Assembly of 29 instruments adopted by the Conference at 19 Sessions between 1993 and 2017. **The Committee urges the Government to provide information on the submission to the Plurinational Legislative Assembly of the 29 instruments adopted by the Conference since 1993 for which submission is still pending. It reminds the Government that it may avail itself of ILO technical assistance if it so wishes.**

## Brunei Darussalam

*Failure to submit.* The Committee notes with **concern** 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. **The Committee 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 ten instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2007–17). 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.**

## Central African Republic

*Failure to submit.* The Committee notes with **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. **The Committee requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).**

## Chad

*Failure to submit.* The Committee notes with **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. **The Committee requests the Government to provide information on the submission to the competent authorities of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).**

## Chile

*Serious failure to submit.* The Committee notes 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. **The Committee expresses the firm hope, as did the Conference in June 2019, that the Government of Chile will comply with its obligations to submit Conventions, Recommendations and Protocols to the competent authorities in the future. The Committee therefore once again requests the Government to provide the required information, indicating the date of submission to the National Congress of 31 instruments adopted at 17 sessions of the Conference between 1996 and 2017 (83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (the Employment Relationship Recommendation, 2006 (No. 198)), 96th, 99th, 101st, 103rd, 104th and 106th Sessions).**

## Comoros

*Serious failure to submit.* The Committee notes with **concern** that the Government has not provided the information requested in its 2018 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. It therefore urges the Government to provide information on the submission to the Assembly of the Union of Comoros of the 44 instruments adopted by the Conference at the 22 sessions held between 1992 and 2017.**

## Congo

*Serious failure to submit.* The Committee notes with **regret** that the Government has once again not replied 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. **The Committee expresses the firm hope, as did the Conference in June 2019, 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 requests the Government to complete the submission procedure in relation to 65 Conventions, Recommendations and Protocols, adopted by the Conference during 31 sessions from 1970 to 2017, which have not yet been submitted to the National Assembly.

## Croatia

*Serious failure to submit.* The Committee notes that the Government has not provided the information requested in its 2018 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the Croatian Parliament of the 22 instruments adopted by the Conference at 13 sessions held between 1998 and 2017 (86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

## Democratic Republic of the Congo

*Failure to submit.* The Committee notes that the Government has not replied to its 2018 direct request. 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 reiterates its request that the Government provide information on the eight instruments pending submission to Parliament adopted from the 99th Session (2010) to the 106th Session (2017) of the Conference.*

## Dominica

*Serious failure to submit.* The Committee once again notes with *concern* 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. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information on the submission to the House of Assembly of the 42 instruments adopted by the Conference during 21 sessions held between 1993 and 2017 (80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).* It 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

*Serious failure to submit.* The Committee notes the information provided by a Government representative before the Conference Committee in June 2019 indicating that the country welcomed the technical cooperation received from the ILO for the preparation of the Protocol of Institutional Procedures for the submission of ILO instruments. The Government representative indicated that the Government would soon take the first steps for the submission of the relevant Conventions and Recommendations to the competent authority. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent national authority. The Committee therefore urges the Government to submit to the Legislative Assembly the instruments adopted at the 23 sessions of the Conference held between October 1976 and June 2017. Moreover, the Committee once again requests the Government to 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.*

## Equatorial Guinea

*Serious failure to submit.* The Committee once again notes with *concern* 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. *The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. Accordingly, the Committee urges the Government to provide information on the submission to Parliament of the 35 instruments adopted by the Conference between 1993 and 2017.*

## Eswatini

*Failure to submit.* The Committee notes that the Government has not responded to its 2018 observation. *The Committee therefore reiterates its request for information on the submission to the House of Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd and 104th Sessions (2010–15), as well as information on the submission of the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at the 106th Session of the Conference.*

## Fiji

*Serious failure to submit.* The Committee notes the information provided by the Government in September 2017 indicating that, from 2006 to September 2013, the competent authority in Fiji was the Cabinet of Ministers. The Government further indicates that the competent authority is now the Parliament of Fiji. The Committee refers to its comments made since 2012 in which it noted that the Government would be able to submit the instruments adopted by the Conference only after the establishment of a Parliament. *The Committee expresses the firm hope, as did the Conference Committee in June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (Parliament). The Committee therefore requests the Government to provide information on the submission to Parliament of the 22 instruments adopted by the Conference at the 83rd, 86th, 88th, 90th, 91st, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (1996–2017).*

## Gabon

*Serious failure to submit.* The Committee once again notes with *concern* 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. *The Committee expresses the firm hope, as did the Conference Committee in June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to provide information concerning the submission to Parliament of the 25 Conventions, Recommendations and Protocols adopted at the 82nd, 83rd, 85th, 86th, 88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions of the Conference.*

## Gambia

*Failure to submit.* The Committee notes with *regret* that the Government has not replied to its previous comments. *The Committee once again requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

## Grenada

*Serious failure to submit.* The Committee once again notes with *concern* that the Government has not replied 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. *The Committee refers to its previous observations and once again urges the Government to communicate the date on which the instruments adopted by the Conference between 1994 and 2006 were submitted and the decisions taken by the Parliament of Grenada on the instruments submitted. It also renews its request that the Government provide information on the submission to the Parliament of Grenada of the instruments adopted at the 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions of the Conference (2007–17).*

## Guinea

*Serious failure to submit.* The Committee notes with *regret* that the Government has not responded to its 2018 Observation. *The Committee therefore urges the Government to provide information regarding the submission to the National Assembly of the 29 instruments adopted at 16 sessions held by the Conference between October 1996 and June 2017 (84th, 85th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th, 96th, 99th, 101st, 103rd, 104th and 106th Sessions).*

## Guinea-Bissau

*Submission.* The Committee notes the information provided by the Government in August 2019, indicating that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 2016), adopted by the Conference at its 106th Session, was submitted to the Assembly of the Republic of Guinea-Bissau on 13 April 2019. *The Committee reiterates its request that the Government provide information on the submission to the Assembly of the Republic of the 19 remaining instruments adopted by the Conference at its 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions (2001–15).*

## Guyana

*Failure to submit.* The Committee notes with **regret** that the Government has not replied to its 2018 comments. **The Committee once again requests the Government to provide information on the submission to the Parliament of Guyana of the instruments adopted by the Conference at its 96th, 99th, 101st, 103rd, 104th and 106th Sessions.**

## Haiti

*Serious failure to submit.* The Committee once again notes with **concern** 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. **The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee therefore urges the Government to provide information with regard to the submission to the National Assembly of the following 63 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 25 sessions of the Conference held between 1989 and 2017.**

## Hungary

*Failure to submit.* The Committee notes with **regret** that the Government has not responded to its previous Observation. 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 accordingly reiterates its request that the Government provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).**

## Islamic Republic of Iran

*Failure to submit.* The Committee notes the information provided by the Government on 3 October 2019, indicating that the Violence and Harassment Convention (No. 190) and Recommendation (No. 206), 2019, were submitted to the Islamic Consultative Assembly of Iran on 13 August 2019. **The Committee requests the Government to provide information on any measures taken by the Consultative Assembly in respect of the submission. The Committee also reiterates its request that the Government provide information on the date of submission to the Islamic Consultative Assembly of the Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (90th Session, June 2002), and of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).**

## Iraq

*Submission.* The Committee notes that the Government has not responded to its 2018 Observations. Submission to the Council of Representatives. It therefore reiterates its previous comments.

The Committee notes 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 notes 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. The Government indicates that the Ministry of Labour and Social Affairs is the competent authority with respect to Recommendations. The Committee notes 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 notes 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*). The Committee once again recalls that, by virtue of article 19(5) and (6) of the ILO Constitution, each of the Members of the Organization undertakes to submit the instruments adopted by the Conference to the authority or authorities within whose competence the matter lies for the enactment of legislation or other action. In the 2005 memorandum concerning the obligation to submit Conventions and Recommendations to the competent authorities, the Governing Body indicated that the competent authority is the authority which, under the Constitution of each State, has the power to legislate or to take other action in order to implement Conventions and Recommendations. The competent national authority should normally be the legislature. **The Committee therefore requests the Government 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.**

## Kazakhstan

*Serious failure to submit.* The Committee notes with *regret* that the Government has not replied to its previous Observation. 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 reiterates its request that the Government provide information on the date of submission of Recommendation No. 204 to Parliament. Moreover, the Committee once again requests the Government to provide information on the submission to Parliament of the remaining 34 instruments adopted by the Conference between 1993 and 2017, including with respect to the date of submission of each instrument.*

## Kiribati

*Serious failure to submit.* The Committee notes that the Government has not replied to its previous comments. It notes that a Government representative noted the technical assistance provided by the ILO and expressed the hope that the Government would soon be in a position to meet its reporting obligations. *The Committee expresses the firm hope, as did the Conference Committee in June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to provide information on the submission to Parliament of the 21 instruments adopted by the Conference at 12 sessions held between 2000 and 2017 (88th, 89th, 90th, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).*

## Kuwait

*Serious failure to submit.* The Committee notes with *regret* that the Government has once again not provided the requested information on submission to the competent authority (the National Assembly). The Committee expresses the firm hope, as did the Conference Committee in 2016, 2017, 2018 and 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the National Assembly (*Majlis Al-Ummah*). *The Committee therefore once again requests the Government to indicate the date of submission of the instruments adopted by the Conference at its 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd and 104th Sessions to the National Assembly (Majlis Al-Ummah). In addition, referring to its previous comments, the Committee reiterates its request that the Government specify the date of submission to the National Assembly of the instruments adopted at the 77th Session (Conventions Nos 170 and 171, Recommendations Nos 177 and 178, and the Protocol of 1990), 80th Session (Recommendation No. 181), 86th Session (Recommendation No. 189) and 89th Session (Convention No. 184 and Recommendation No. 192) of the Conference. The Committee further requests the Government to provide information on the steps taken to submit the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted at the 106th Session of the International Labour Conference to the National Assembly.*

## Kyrgyzstan

*Serious failure to submit.* The Committee notes with *regret* that the Government has once again failed to reply to its previous comments. The Committee recalls the information provided by the Government in November 2016 relative to the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), concerning the characteristics of the informal economy in Kyrgyzstan. The Committee noted, however, that the Government has provided no information relating to submission. The Committee therefore once again refers 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 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 2016, 2017, 2018 and 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee once again urges the Government to provide information on the submission to the competent national authority of the 42 instruments adopted by the Conference at 21 sessions held from 1992 to 2017. The Committee reminds the Government of the availability of ILO technical assistance to assist it in overcoming this serious delay.*

## Lebanon

*Failure to submit.* The Committee notes that the Government has not responded to its 2018 Observation. 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 further recalls 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 once again refers to its previous comments and reiterates its request that 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).*

## Liberia

*Serious failure to submit.* The Committee notes with **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. **The Committee expresses the firm hope, as did the Conference Committee in 2017, 2018 and 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore requests the Government to provide information on the submission to the National Legislature of the 23 remaining Conventions, Recommendations and Protocols adopted by the Conference between 2000 and 2017, as well as the 1990 and 1995 Protocols.**

## Libya

*Serious failure to submit.* The Committee notes with **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. **The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017 and June 2018, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authorities. The Committee therefore once again requests 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 35 Conventions, Recommendations and Protocols adopted by the Conference at 18 sessions held between 1996 and 2017.**

## Malawi

*Failure to submit.* The Committee notes with **interest** the ratification of the 2014 Protocol to the Forced Labour Convention, 1930 (No. 29), on 7 November 2019. It further notes 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, 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 indicates that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), was submitted to the competent authority. 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. While noting the Government's indication that the President is a member of the Parliament, the Committee recalls 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 the Government to provide information on the submission to Parliament, and the dates of submission, of the seven instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).**

## Malaysia

*Serious failure to submit.* The Committee notes with **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. **The Committee expresses the firm hope, as did the Conference Committee in June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee once again requests the Government to provide information on the submission to the Parliament of Malaysia of the instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2006–17).**

## Republic of Maldives

*Failure to submit.* The Committee notes that the Government has not replied to its previous comments. The Committee 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 and 106th Sessions. **The Committee once again requests the Government to provide information on the submission (indicating the dates of submission) to the People's Majlis of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).** 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 People's *Majlis* of the instruments adopted by the Conference.

## Malta

*Serious failure to submit.* The Committee notes with **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. **The Committee expresses the firm hope, as did the Conference Committee in 2017, 2018 and 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee once again requests the Government to provide information on the submission to the House of Representatives of the instruments adopted by the Conference at its 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2007–17).**

## Marshall Islands

*Failure to submit.* The Committee notes that the Government has not responded to its 2018 comments. The Committee recalls that 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 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17). **The Committee invites the Government to provide information on the submission to Parliament of the eight instruments adopted by the Conference between 2010 and 2017.**

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 ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

## Mexico

*Failure to submit.* **The Committee reiterates its request that the Government provide information on the submission to the Senate of the Republic of the instruments adopted at the 95th, 96th, 100th, 103rd, 104th and 106th Sessions of the Conference.**

## Republic of Moldova

*Submission.* The Committee notes with **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. **The Committee once again requests the Government to provide information on the submission to Parliament of the instruments adopted by the Conference at its 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd and 106th Sessions.**

## Mozambique

*Submission.* The Committee notes the information provided by the Government informing that the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), was submitted on 13 April 2018 to the Assembly of the Republic. **The Committee nevertheless 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 2014. It also requests the Government to specify the date of submission to the Assembly of the Republic of Convention No. 129.**

## North Macedonia

*Serious failure to submit.* The Committee notes with **concern** that the Government has once again not replied 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. **The Committee once again requests the Government to provide information concerning the submission to the Assembly of the Republic (Sobranie) of 27 instruments (Conventions, Recommendations and Protocols) adopted by the Conference from October 1996 to June 2017.**

## Pakistan

*Serious failure to submit.* The Committee notes the information provided by the Government on 24 July 2019, indicating that the Ministry of Overseas Pakistanis and Human Resource Development (MOPHRD) of Pakistan has initiated the process for placing the pending instruments before the Parliament. 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 expresses the firm hope, as did the Conference Committee in 2017, 2018 and 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee once again requests the Government to complete the procedure to submit the remaining 39 instruments adopted by the Conference at 19 sessions held between 1994 and 2017 to the competent national authorities, and to keep the Office informed of progress made.**

## Papua New Guinea

*Serious failure to submit.* The Committee once again notes with **concern** 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. **The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore urges the Government to submit to the National Parliament the 23 instruments adopted by the Conference at 14 sessions held between 2000 and 2017.**

## Rwanda

*Serious failure to submit.* The Committee notes that the Government has not responded 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 urges the Government to provide information on the date of submission to the National Assembly of the 36 Conventions, Recommendations and Protocols adopted by the Conference at 19 sessions held between 1993 and 2017 (80th, 82nd, 83rd, 84th, 86th, 88th, 89th, 90th, 91st, 92nd, 94th, 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions).**

## Saint Kitts and Nevis

*Serious failure to submit to the National Assembly.* The Committee notes with **concern** that the Government has once again failed to reply 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 also recalls that the competent national authority should normally be the legislature, that is, 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 and June 2019, 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 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).** 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 notes with **concern** that the Government has once again 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. **The Committee therefore once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee once again urges the Government to provide information on the submission to Parliament of the remaining Conventions, Recommendations and Protocols adopted by the Conference from 1980 to 2017 (66th, 67th (Conventions Nos 155 and 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, 91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th 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 Vincent and the Grenadines

*Serious failure to submit.* The Committee notes with **concern** that the Government has once again failed to reply 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 once again expresses the firm hope, as did the Conference Committee in June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the House of Assembly). The Committee once again urges the Government to provide information on the submission to the House of Assembly of the 29 instruments (Conventions, Recommendations and Protocols) adopted by the Conference at 16 sessions held from 1995 to 2017 (82nd, 83rd, 85th, 88th, 89th, 90th, 91st, 92nd, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th 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.

## Samoa

*Case of Progress.* The Committee notes with *satisfaction* that the instruments adopted by the Conference at its 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2006–17) were submitted to the Legislative Assembly on 18 December 2018. *The Committee commends the Government for the progress achieved in complying with its constitutional obligation of submission.*

## Seychelles

*Serious failure to submit.* The Committee notes with *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. *The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Assembly). The Committee urges the Government to provide the requested information on the submission to the National Assembly of the 20 instruments adopted by the Conference at 12 sessions held from 2001 to 2017.* 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.

## Sierra Leone

*Serious failure to submit.* The Committee notes with *deep concern* that the Government has once again failed to reply 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 once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, 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 strongly 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 2017. The Government is urged to take steps without delay to submit the 99 pending instruments to Parliament.* 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.

## Solomon Islands

*Serious failure to submit.* The Committee notes once again with *deep concern* 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. *The Committee once again expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the National Parliament). The Committee once again urges the Government to provide information on the submission to the National Parliament of the instruments adopted by the Conference between 1984 and 2017. The Government is urged to take steps without delay to submit the 63 pending instruments to the National Parliament.* 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.

## Somalia

*Serious failure to submit.* The Committee notes that the Government has not responded to its 2018 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 expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority. The Committee therefore once again requests the Government to provide information on the submission to the competent national authority concerning the 52 instruments adopted by the Conference between 1989 and 2017.* 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.

## Syrian Arab Republic

*Serious failure to submit.* The Committee notes with **regret** that the Government has once again failed to reply to its previous comments. It 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 also recalls that 39 instruments adopted by the Conference are still waiting to be submitted to the People's Council. In this context, 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 expresses the firm hope, as did the Conference Committee in June 2018 and June 2019, that the Government will provide information on the submission to the People's Council of the 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 and 106th Sessions.**

## Timor-Leste

*Failure to submit.* The Committee notes that the Government has once again not replied to its previous comments. **The Committee therefore reiterates its request that the Government provide information on the submission to the National Parliament of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).** 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.

## Tuvalu

*Failure to submit.* The Committee notes once again with **concern** that the Government has not replied 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 and 106th Sessions (2010–15). **The Committee hopes that the Government will soon be in a position to provide information on the submission to the competent authorities of the eight instruments adopted by the Conference between 2010 and 2017.** 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. In this context, 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 ILO Constitution relating to the submission of the instruments adopted by the Conference to the competent authorities.

## United Arab Emirates

*Serious failure to submit.* The Committee notes that the Government has once again failed to respond to its previous comments. **The Committee therefore reiterates its request that the Government proceed to submit the instruments to the authorities it deems to be competent to complete the submission procedure. It requests the Government to provide information on the submission to the competent national authorities of the MLC, 2006 (94th Session, February 2006), Convention No. 189 and Recommendations Nos 200, 201 and 202, adopted by the Conference at its 99th, 100th and 101st Sessions (2010–12). It also requests the Government to provide information on the submission to the competent national authorities of 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 as well as the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), adopted by the Conference at its 106th Session.**

## Vanuatu

*Serious failure to submit.* The Committee once again notes with **concern** 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. **The Committee expresses the firm hope, as did the Conference Committee in June 2016, June 2017, June 2018 and June 2019, that the Government will comply with its obligation to submit Conventions, Recommendations and Protocols to the competent authority (the Parliament of Vanuatu). The Committee therefore urges the Government to provide information on the submission to the Parliament of Vanuatu of the instruments adopted by the Conference at 11 sessions held between 2003 and 2017 (91st, 92nd, 94th, 95th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions). The Committee reminds the Government that, if it so wishes, it may seek technical assistance from the Office.**

## Yemen

*Serious failure to submit.* The Committee notes that the Government has not responded to its 2018 comments. It 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. *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 instruments adopted by the Conference at its 90th, 94th, 96th, 99th, 100th, 101st, 103rd, 104th and 106th Sessions, as well as on the submission of Recommendations Nos 191, 192 and 198, adopted by the Conference at its 88th, 89th and 95th Sessions.*

## Zambia

*Failure to submit. Date of submission.* The Committee notes with *regret* that the Government has once again 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 further 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. *The Committee once again requests the Government to indicate the dates on which the above-mentioned instruments were submitted to the National Assembly. It also reiterates its request that the Government 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. In addition, the Committee once again requests the Government to provide information on the submission to the National Assembly of the instruments adopted by the Conference at its 99th, 100th, 101st, 103rd, 104th and 106th Sessions (2010–17).*

## Direct requests

In addition, requests regarding certain matters are being addressed directly to the following States: *Afghanistan, Algeria, Argentina, Armenia, Austria, Barbados, Benin, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Colombia, Costa Rica, Côte d'Ivoire, Djibouti, Dominican Republic, Ecuador, Eritrea, Ethiopia, France, Georgia, Germany, Ghana, Honduras, Jordan, Kenya, Lao People's Democratic Republic, Lesotho, Madagascar, Mauritania, Mongolia, Namibia, Nepal, Nicaragua, Nigeria, Oman, Palau, Panama, Paraguay, Peru, Qatar, Romania, Russian Federation, San Marino, Sao Tome and Principe, Saudi Arabia, Singapore, South Africa, South Sudan, Spain, Sri Lanka, Sudan, Suriname, Tajikistan, Thailand, Togo, Tonga, Tunisia, Uganda, Uruguay, Bolivarian Republic of Venezuela, Viet Nam.*





***Appendices***



**Appendix I. Reports requested on ratified Conventions  
registered as at 7 December 2019**  
(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 7 December 2019 and of reports not received**

*Note: First reports are indicated in parentheses.*

<b>Afghanistan</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. 137</li> <li>· 6 reports not received: Conventions Nos. 100, 111, 140, 141, 142, 144</li> </ul>	
<b>Albania</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 11, 81, 87, 98, 100, 111, 129, 135, 141, 144, 151, 154, 177, 185, (MLC, 2006)</li> </ul>	
<b>Algeria</b>	<b>5 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 11, 87, 98, 135, 144</li> </ul>	
<b>Angola</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 12, 18, 81, 87, 98, 100, (188)</li> </ul>	
<b>Antigua and Barbuda</b>	<b>11 reports requested</b>
<ul style="list-style-type: none"> <li>· 4 reports received: Conventions Nos. 81, 100, 111, 142</li> <li>· 7 reports not received: Conventions Nos. 11, 87, 98, 135, 144, 151, 154</li> </ul>	
<b>Argentina</b>	<b>8 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 11, 87, 98, 135, 144, 151, 154, 177</li> </ul>	
<b>Armenia</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 87, 98, 135, 144, 151, 154</li> </ul>	
<b>Australia</b>	<b>5 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 11, 87, 98, 135, 144</li> </ul>	
<b>Austria</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 11, 87, 98, 135, 141, 144</li> </ul>	
<b>Azerbaijan</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 11, 87, 98, 135, 144, 151, 154</li> </ul>	
<b>Bahamas</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 11, 87, 98, 144, 185, MLC, 2006</li> </ul>	
<b>Bangladesh</b>	<b>5 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 11, 81, 87, 98, 144</li> </ul>	
<b>Barbados</b>	<b>22 reports requested</b>
<ul style="list-style-type: none"> <li>· 7 reports received: Conventions Nos. 12, 17, 19, 42, 98, 105, 138</li> <li>· 15 reports not received: Conventions Nos. 11, 29, 81, 87, 95, 97, 100, 102, 111, 118, 122, 128, 135, 144, 172</li> </ul>	
<b>Belarus</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· All reports received: Conventions Nos. 11, 87, 98, 144, 151, 154</li> </ul>	
<b>Belgium</b>	<b>11 reports requested</b>
<ul style="list-style-type: none"> <li>· 10 reports received: Conventions Nos. 11, 87, 98, (130), 141, 144, 151, 154, (170), (172)</li> <li>· 1 report not received: Convention No. (128)</li> </ul>	

<b>Belize</b>	<b>22 reports requested</b>
· No reports received: Conventions Nos. 11, 19, 29, 87, 88, 97, 98, 100, 105, 111, 115, 135, 138, 140, 141, 144, 150, 151, 154, 155, 156, 182	
<b>Benin</b>	<b>6 reports requested</b>
· 4 reports received: Conventions Nos. 87, 98, 144, 154	
· 2 reports not received: Conventions Nos. 11, 135	
<b>Bolivia, Plurinational State of</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 87, 98, 131, 136, 162, 167	
<b>Bosnia and Herzegovina</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 135, 144, 151, 154	
<b>Botswana</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144, 151	
<b>Brazil</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 11, 98, 135, 141, 144, 151, 154	
<b>Brunei Darussalam</b>	<b>2 reports requested</b>
· No reports received: Conventions Nos. 138, 182	
<b>Bulgaria</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 144	
<b>Burkina Faso</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 11, 87, 98, 135, 141, 144	
<b>Burundi</b>	<b>7 reports requested</b>
· 2 reports received: Conventions Nos. 26, 111	
· 5 reports not received: Conventions Nos. 11, 87, 98, 135, 144	
<b>Cabo Verde</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 87, 98	
<b>Cambodia</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 87, 98	
<b>Cameroon</b>	<b>5 reports requested</b>
· No reports received: Conventions Nos. 87, 98, 108, 146, 158	
<b>Canada</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 27, 32, 87, (98), 108, 144	
<b>Central African Republic</b>	<b>3 reports requested</b>
· No reports received: Conventions Nos. 87, 98, 144	
<b>Chad</b>	<b>15 reports requested</b>
· 14 reports received: Conventions Nos. 6, 11, 29, 81, 98, 100, (102), 105, 111, (122), 138, 144, 151, 182	
· 1 report not received: Convention No. 87	
<b>Chile</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 27, 32, 87, 98, 144, 187	
<b>China</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 27, 32, 144, 155, 167, 170	

<b>China - Hong Kong Special Administrative Region</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 32, 87, 98, 108, 144, (MLC, 2006)	
<b>China - Macau Special Administrative Region</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 22, 23, 27, 68, 69, 87, 92, 98, 108, 144	
<b>Colombia</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 8, 9, 22, 23, 87, 98, 144	
<b>Comoros</b>	<b>13 reports requested</b>
<ul style="list-style-type: none"> <li>· 10 reports received: Conventions Nos. 6, 11, 13, 14, 81, 89, 100, 101, 106, 111</li> <li>· 3 reports not received: Conventions Nos. 87, 98, 144</li> </ul>	
<b>Congo</b>	<b>15 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 29, 81, 87, 98, 100, 105, 111, 144, 149, 150, 152, 182, (185), (MLC, 2006), (188)</li> </ul>	
<b>Costa Rica</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 87, 92, 98, 113, 114, 134, 137, 144, 147	
<b>Côte d'Ivoire</b>	<b>11 reports requested</b>
<ul style="list-style-type: none"> <li>· 10 reports received: Conventions Nos. 87, 98, 100, 144, (150), (155), (160), (161), (171), (187)</li> <li>· 1 report not received: Convention No. 133</li> </ul>	
<b>Croatia</b>	<b>6 reports requested</b>
<ul style="list-style-type: none"> <li>· 4 reports received: Conventions Nos. 32, 87, 113, 185</li> <li>· 2 reports not received: Conventions Nos. 27, 98</li> </ul>	
<b>Cuba</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 22, 23, 27, 87, 92, 98, 108, 110, 113, 137, 152	
<b>Cyprus</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 87, 98, 114, 144, 152, MLC, 2006	
<b>Czech Republic</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 27, 87, 98, 108, 144, (154), 163, 164	
<b>Democratic Republic of the Congo</b>	<b>15 reports requested</b>
All reports received: Conventions Nos. 27, 81, 87, 94, 95, 98, 100, 111, 117, 119, 120, 135, 144, 150, 158	
<b>Denmark</b>	<b>8 reports requested</b>
<ul style="list-style-type: none"> <li>· 7 reports received: Conventions Nos. 87, 98, 108, 126, 144, 152, MLC, 2006</li> <li>· 1 report not received: Convention No. 27</li> </ul>	
<b>Denmark - Faroe Islands</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 27, 87, 98, 108, 126, MLC, 2006	
<b>Denmark - Greenland</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 7, 16, 87, 98, (100), 126	
<b>Djibouti</b>	<b>22 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 12, 17, 18, 19, 24, 29, 37, 38, 71, 81, 87, 98, 100, 105, 108, 111, 122, 125, 126, 138, 144, 182</li> </ul>	
<b>Dominica</b>	<b>24 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 11, 12, 14, 19, 22, 26, 29, 81, 87, 94, 95, 97, 98, 100, 105, 108, 111, 135, 138, 144, 147, 150, 169, 182</li> </ul>	

<b>Dominican Republic</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 87, 98, (102), 144	
<b>Ecuador</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 87, 98, 113, 114, 144, 152	
<b>Egypt</b>	<b>15 reports requested</b>
All reports received: Conventions Nos. 22, 55, 56, 68, 69, 71, 87, 92, 98, 134, 137, 144, 147, 152, 166	
<b>El Salvador</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	
<b>Equatorial Guinea</b>	<b>14 reports requested</b>
· No reports received: Conventions Nos. 1, 14, 29, 30, (68), 87, (92), 98, 100, 103, 105, 111, 138, 182	
<b>Eritrea</b>	<b>4 reports requested</b>
· No reports received: Conventions Nos. 87, 98, 105, 138	
<b>Estonia</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 27, 87, 98, 108, 144, MLC, 2006, 188	
<b>Eswatini</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 87, 98, 144	
<b>Ethiopia</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 87, 98, 138, 144	
<b>Fiji</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 11, 12, 19, 87, 98, 100, 108, 111, 144, MLC, 2006	
<b>Finland</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 27, 87, 98, 108, 137, 144, 152, MLC, 2006	
<b>France</b>	<b>12 reports requested</b>
· 11 reports received: Conventions Nos. 27, 71, 87, 98, 125, 137, 144, 149, 152, 185, 188	
· 1 report not received: Convention No. 82	
<b>France - French Polynesia</b>	<b>28 reports requested</b>
All reports received: Conventions Nos. 9, 16, 22, 23, 29, 53, 55, 56, 58, 69, 71, 73, 81, 82, 87, 98, 100, 108, 111, 125, 126, 129, 142, 144, 145, 146, 147, 149	
<b>France - French Southern and Antarctic Territories</b>	<b>20 reports requested</b>
All reports received: Conventions Nos. 8, 9, 16, 22, 23, 53, 58, 68, 69, 73, 74, 87, 92, 98, 108, 111, 133, 134, 146, 147	
<b>France - New Caledonia</b>	<b>8 reports requested</b>
· 7 reports received: Conventions Nos. 71, 87, 98, 108, 125, 126, 144	
· 1 report not received: Convention No. (188)	
<b>Gabon</b>	<b>4 reports requested</b>
· 3 reports received: Conventions Nos. 100, 111, 122	
· 1 report not received: Convention No. (MLC, 2006)	
<b>Gambia</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 87, 98, 100, 105, 111, 138, 182	
<b>Georgia</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122	

<b>Germany</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 122, 172, 189	
<b>Ghana</b>	<b>10 reports requested</b>
· 6 reports received: Conventions Nos. 105, 107, 117, 138, 144, 182	
· 4 reports not received: Conventions Nos. 29, 100, 111, 149	
<b>Greece</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 142, 149	
· 1 report not received: Convention No. 156	
<b>Grenada</b>	<b>13 reports requested</b>
· No reports received: Conventions Nos. 12, 19, 29, 81, 87, 97, 98, 100, 105, 111, 138, 144, 182	
<b>Guatemala</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 87, 97, 98, 100, 110, 111, 122, 149, 156, 169, (175)	
<b>Guinea</b>	<b>17 reports requested</b>
· No reports received: Conventions Nos. 100, 111, 114, 117, 118, 121, 122, 135, 140, 143, 149, 151, 156, (167), (176), (187), (189)	
<b>Guinea - Bissau</b>	<b>25 reports requested</b>
· 21 reports received: Conventions Nos. 12, 18, 19, 26, 27, 29, 68, 69, 73, 74, 81, 91, 92, 98, 100, 105, 107, 108, 111, 138, 182	
· 4 reports not received: Conventions Nos. 6, 17, 45, 88	
<b>Guyana</b>	<b>14 reports requested</b>
· No reports received: Conventions Nos. 94, 97, 98, 100, 105, 111, 138, 139, 140, 144, 149, 172, 182, 189	
<b>Haiti</b>	<b>20 reports requested</b>
· 1 report received: Convention No. 81	
· 19 reports not received: Conventions Nos. 12, 17, 19, 24, 25, 29, 42, 45, 77, 78, 87, 90, 98, 100, 105, 107, 111, 138, 182	
<b>Honduras</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 87, 100, 111, 122, 169	
<b>Hungary</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 29, 100, 105, 111, 122, 138, 140, 142, 144, 182, 185, MLC, 2006	
<b>Iceland</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 156	
<b>India</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 81, 100, 107, 111, 122, (138), (182)	
<b>Indonesia</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 111, (MLC, 2006)	
<b>Iran, Islamic Republic of</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122	
<b>Iraq</b>	<b>13 reports requested</b>
· 8 reports received: Conventions Nos. 100, 107, 111, 122, 144, 149, 172, 182	
· 5 reports not received: Conventions Nos. 22, 23, 92, 146, 147	
<b>Ireland</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 172, 177, 189	

<b>Israel</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 122	
<b>Italy</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 97, 100, 111, 122, 143, 149, 189	
<b>Jamaica</b>	<b>14 reports requested</b>
<ul style="list-style-type: none"> <li>· 11 reports received: Conventions Nos. 29, 94, 97, 105, 111, 117, 122, 138, 144, 149, 182</li> <li>· 3 reports not received: Conventions Nos. 100, (MLC, 2006), (189)</li> </ul>	
<b>Japan</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 87, 100, 122, 156, MLC, 2006	
<b>Jordan</b>	<b>8 reports requested</b>
<ul style="list-style-type: none"> <li>· 4 reports received: Conventions Nos. 100, 122, 144, (MLC, 2006)</li> <li>· 4 reports not received: Conventions Nos. 105, 111, 142, 185</li> </ul>	
<b>Kazakhstan</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 87, 100, 105, 111, 122, 156	
<b>Kenya</b>	<b>9 reports requested</b>
<ul style="list-style-type: none"> <li>· 5 reports received: Conventions Nos. 97, 100, 111, 140, 143</li> <li>· 4 reports not received: Conventions Nos. 138, 142, 149, 182</li> </ul>	
<b>Kiribati</b>	<b>9 reports requested</b>
<ul style="list-style-type: none"> <li>· 8 reports received: Conventions Nos. 29, 87, 98, 100, 105, 138, 182, (185)</li> <li>· 1 report not received: Convention No. 111</li> </ul>	
<b>Korea, Republic of</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 156	
<b>Kuwait</b>	<b>1 report requested</b>
All reports received: Convention No. 111	
<b>Kyrgyzstan</b>	<b>32 reports requested</b>
All reports received: Conventions Nos. 11, 17, 27, 29, 32, 45, 77, 78, 79, 81, 87, 90, 95, 97, 98, 100, 105, 111, 119, 120, 122, 124, 131, 138, 142, 144, 149, 154, 157, 159, 160, 182	
<b>Lao People's Democratic Republic</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· 6 reports received: Conventions Nos. 29, 100, 111, 138, 144, 182</li> <li>· 1 report not received: Convention No. 6</li> </ul>	
<b>Latvia</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 100, 111, 122, 142, 158	
<b>Lebanon</b>	<b>12 reports requested</b>
<ul style="list-style-type: none"> <li>· No reports received: Conventions Nos. 29, 81, 88, 100, 105, 111, 122, 138, 142, 159, 172, 182</li> </ul>	
<b>Lesotho</b>	<b>9 reports requested</b>
<ul style="list-style-type: none"> <li>· 8 reports received: Conventions Nos. 29, 100, 105, 111, 138, 144, 158, 182</li> <li>· 1 report not received: Convention No. 135</li> </ul>	
<b>Liberia</b>	<b>10 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. MLC, 2006</li> <li>· 9 reports not received: Conventions Nos. 29, 87, 98, 105, 111, 112, 113, 114, 144</li> </ul>	
<b>Libya</b>	<b>7 reports requested</b>
<ul style="list-style-type: none"> <li>· 1 report received: Convention No. 111</li> <li>· 6 reports not received: Conventions Nos. 88, 96, 100, 122, 130, 138</li> </ul>	

<b>Lithuania</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 88, 100, 111, 122, 142, 159, 181	
<b>Luxembourg</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 2, 88, 96, 100, 111, 142, 158, 159	
<b>Madagascar</b>	<b>12 reports requested</b>
· No reports received: Conventions Nos. 29, 88, 100, 105, 111, 117, 122, 138, 144, 159, 182, 185	
<b>Malawi</b>	<b>17 reports requested</b>
· 14 reports received: Conventions Nos. 26, 81, 97, 98, 99, 105, 107, 129, 144, 149, 150, 158, 159, 182	
· 3 reports not received: Conventions Nos. 45, 100, 111	
<b>Malaysia</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 88, 95, 100, 123, 144	
<b>Malaysia - Malaysia - Peninsular</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 11, 12, 17, 19	
<b>Malaysia - Malaysia - Sabah</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 94, 97	
<b>Malaysia - Malaysia - Sarawak</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 11, 12, 16, 19, 94	
<b>Maldives, Republic of</b>	<b>8 reports requested</b>
· 7 reports received: Conventions Nos. 29, (100), 105, 111, 138, 182, (185)	
· 1 report not received: Convention No. (MLC, 2006)	
<b>Mali</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 88, 100, 111, 122, 159, 181	
<b>Malta</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 2, 29, 88, 96, 100, 105, 111, 117, 138, 149, 159, 182, MLC, 2006	
<b>Mauritania</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 94, 96, 100, 105, 111, 122, 138, 182	
<b>Mauritius</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 2, 88, 94, 100, 111, 159	
<b>Mexico</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 96, 100, 105, 110, 111, 140, 142, 144, 159, 172	
<b>Moldova, Republic of</b>	<b>19 reports requested</b>
All reports received: Conventions Nos. 29, 81, 88, 92, 100, 105, 111, 117, 122, 129, 133, 138, 142, 144, 152, 158, 181, 182, 185	
<b>Mongolia</b>	<b>6 reports requested</b>
· No reports received: Conventions Nos. 88, 100, 111, 122, 159, 181	
<b>Montenegro</b>	<b>11 reports requested</b>
· 10 reports received: Conventions Nos. 2, 88, 100, 111, 122, 140, (152), 158, 159, (185)	
· 1 report not received: Convention No. 142	
<b>Morocco</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 2, 94, 100, 111, 122, 158, 181	

<b>Mozambique</b>	<b>7 reports requested</b>
· 5 reports received: Conventions Nos. 29, 98, 100, 105, 111	
· 2 reports not received: Conventions Nos. 88, 122	
<b>Myanmar</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 2, 29, (185)	
<b>Namibia</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 100, 111, 158	
<b>Nepal</b>	<b>2 reports requested</b>
All reports received: Conventions Nos. 100, 111	
<b>Netherlands</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 88, 94, 100, 111, 122, (139), 140, 142, (148), 159, (170), 181	
<b>Netherlands - Aruba</b>	<b>13 reports requested</b>
· No reports received: Conventions Nos. 29, 87, 88, 94, 105, 113, 114, 122, 138, 140, 142, 144, 182	
<b>Netherlands - Caribbean Part of the Netherlands</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 88, 94, 122	
<b>Netherlands - Curaçao</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 87, 88, 94, 122, 172, (182), (MLC, 2006)	
<b>Netherlands - Sint Maarten</b>	<b>3 reports requested</b>
· No reports received: Conventions Nos. 88, 94, 122	
<b>New Zealand</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 82, 88, 100, 111, 122	
<b>New Zealand - Tokelau</b>	<b>3 reports requested</b>
All reports received: Conventions Nos. 82, 100, 111	
<b>Nicaragua</b>	<b>15 reports requested</b>
· 5 reports received: Conventions Nos. 95, 100, 140, 142, (MLC, 2006)	
· 10 reports not received: Conventions Nos. 6, 17, 77, 78, 88, 105, 111, 117, 122, 137	
<b>Niger</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 100, 111, 117, 142, 158, 181	
<b>Nigeria</b>	<b>6 reports requested</b>
· No reports received: Conventions Nos. 88, 94, 100, 111, 159, 185	
<b>North Macedonia</b>	<b>13 reports requested</b>
· 6 reports received: Conventions Nos. 87, 98, 122, 140, 142, 177	
· 7 reports not received: Conventions Nos. 88, 94, 100, 111, 158, 159, 181	
<b>Norway</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 88, 94, 100, 111, 122, 142, 159	
<b>Oman</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 182	
<b>Pakistan</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 81, 90, 105, 138, 182	
<b>Panama</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 81, 105, 124, 138, 182	

<b>Papua New Guinea</b>	<b>13 reports requested</b>
· 6 reports received: Conventions Nos. 26, 27, 87, 99, 105, 182	
· 7 reports not received: Conventions Nos. 29, 98, 100, 111, 122, 138, 158	
<b>Paraguay</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 29, 59, 77, 78, 79, 81, 90, 105, 123, 124, 138, 182	
<b>Peru</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 29, 59, 77, 78, 79, 81, 90, 105, 138, 182	
<b>Philippines</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 29, 77, 87, 90, 105, 138, (151), 182	
<b>Poland</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 79, 81, 90, 105, 124, 129, 138, 182	
<b>Portugal</b>	<b>13 reports requested</b>
All reports received: Conventions Nos. 6, 29, 77, 78, 81, 105, 124, 129, 138, 182, (MLC, 2006), (187), 189	
<b>Qatar</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 138, 182	
<b>Romania</b>	<b>13 reports requested</b>
· 12 reports received: Conventions Nos. 6, 27, 29, 81, 87, 98, 105, 117, 122, 129, 138, 182	
· 1 report not received: Convention No. (MLC, 2006)	
<b>Russian Federation</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 79, 81, 90, 105, 124, 138, (139), 182	
<b>Rwanda</b>	<b>11 reports requested</b>
· 3 reports received: Conventions Nos. 87, 98, 122	
· 8 reports not received: Conventions Nos. 29, 42, 81, 100, 105, 123, 138, 182	
<b>Saint Kitts and Nevis</b>	<b>5 reports requested</b>
· No reports received: Conventions Nos. 29, 105, 138, 182, MLC, 2006	
<b>Saint Lucia</b>	<b>20 reports requested</b>
· No reports received: Conventions Nos. 5, 7, 11, 12, 17, 19, 26, 29, 87, 94, 95, 97, 98, 100, 105, 108, 111, 154, 158, 182	
<b>Saint Vincent and the Grenadines</b>	<b>16 reports requested</b>
· 6 reports received: Conventions Nos. 11, 12, 19, 29, 108, (MLC, 2006)	
· 10 reports not received: Conventions Nos. 81, 95, 100, 105, 111, 122, 129, 138, 144, 182	
<b>Samoa</b>	<b>4 reports requested</b>
· No reports received: Conventions Nos. 29, 105, 138, 182	
<b>San Marino</b>	<b>16 reports requested</b>
· No reports received: Conventions Nos. 29, 87, 98, 105, 119, 138, 140, 142, 144, 148, 151, 156, 159, 160, 161, 182	
<b>Sao Tome and Principe</b>	<b>8 reports requested</b>
· No reports received: Conventions Nos. 29, 81, 87, 98, 105, 138, 182, (183)	
<b>Saudi Arabia</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 81, 90, 105, 123, 138, 182	

<b>Senegal</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 6, 10, 29, 81, 105, 138, 182, (183)	
<b>Serbia</b>	<b>9 reports requested</b>
· 8 reports received: Conventions Nos. 29, 81, 87, 90, 105, 129, 144, 182	
· 1 report not received: Convention No. 138	
<b>Seychelles</b>	<b>5 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 138, 182	
<b>Sierra Leone</b>	<b>24 reports requested</b>
· 6 reports received: Conventions Nos. 87, 88, 98, 100, 111, 144	
· 18 reports not received: Conventions Nos. 17, 19, 22, 26, 29, 32, 45, 81, 94, 95, 99, 101, 105, 119, 125, 126, 138, 182	
<b>Singapore</b>	<b>10 reports requested</b>
· 8 reports received: Conventions Nos. 19, 29, 81, 94, 98, 100, 144, 182	
· 2 reports not received: Conventions Nos. 32, 138	
<b>Slovakia</b>	<b>11 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 81, 90, 105, 123, 124, 129, 138, 182	
<b>Slovenia</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 81, 90, 105, 129, 138, 142, 182, (MLC, 2006)	
<b>Solomon Islands</b>	<b>8 reports requested</b>
· No reports received: Conventions Nos. 29, 42, 81, 95, 98, 105, 138, 182	
<b>Somalia</b>	<b>15 reports requested</b>
· 2 reports received: Conventions Nos. (87), (98)	
· 13 reports not received: Conventions Nos. 17, 19, 22, 23, 29, 45, 84, 85, 94, 95, 105, 111, (182)	
<b>South Africa</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 29, 81, 87, 98, 105, 138, 182, MLC, 2006, (188), 189	
<b>South Sudan</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 98, 100, 105, 111, 138, 182	
<b>Spain</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 29, 77, 78, 79, 81, 90, 105, 123, 124, 129, 138, 182	
<b>Sri Lanka</b>	<b>9 reports requested</b>
· 7 reports received: Conventions Nos. 29, 81, 90, 98, 138, 182, (185)	
· 2 reports not received: Conventions Nos. 105, (MLC, 2006)	
<b>Sudan</b>	<b>5 reports requested</b>
· 1 report received: Convention No. 81	
· 4 reports not received: Conventions Nos. 29, 105, 138, 182	
<b>Suriname</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 81, (100), 105, (111), 182	
<b>Sweden</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 129, 138, 182	
<b>Switzerland</b>	<b>6 reports requested</b>
All reports received: Conventions Nos. 6, 29, 81, 105, 138, 182	
<b>Syrian Arab Republic</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 29, 81, 105, 107, 123, 124, 129, 138, 182	

<b>Tajikistan</b>	<b>27 reports requested</b>
· 1 report received: Convention No. 111	
· 26 reports not received: Conventions Nos. 14, 29, 45, 47, 52, 81, 87, 95, 97, 98, 103, 105, 106, 115, 119, 120, 122, 124, 138, 142, 148, 149, 155, 160, 177, 182	
<b>Tanzania, United Republic of</b>	<b>15 reports requested</b>
· No reports received: Conventions Nos. 12, 17, 19, 29, 63, 95, 105, 131, 138, 140, 142, 148, 170, 182, (185)	
<b>Tanzania, United Republic of - Tanzania. Tanganyika</b>	<b>3 reports requested</b>
· No reports received: Conventions Nos. 45, 81, 101	
<b>Tanzania, United Republic of - Tanzania. Zanzibar</b>	<b>1 report requested</b>
· No reports received: Convention No. 85	
<b>Thailand</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 14, 19, 29, 105, (111), 127, 138, 182, 187	
<b>Timor-Leste</b>	<b>6 reports requested</b>
· 2 reports received: Conventions Nos. 29, 182	
· 4 reports not received: Conventions Nos. 87, 98, (100), (111)	
<b>Togo</b>	<b>13 reports requested</b>
· 12 reports received: Conventions Nos. 13, 14, 26, 29, 81, 95, 102, 105, 129, 138, 182, 187	
· 1 report not received: Convention No. 150	
<b>Trinidad and Tobago</b>	<b>15 reports requested</b>
· 14 reports received: Conventions Nos. 19, 29, 81, 87, 97, 98, 100, 105, 111, 122, 125, 138, 144, 182	
· 1 report not received: Convention No. 150	
<b>Tunisia</b>	<b>26 reports requested</b>
· 25 reports received: Conventions Nos. 12, 13, 14, 17, 18, 19, 26, 29, 45, 52, 62, 81, 89, 95, 99, 105, 106, 118, 119, 120, 127, 138, 142, 150, 182	
· 1 report not received: Convention No. (MLC, 2006)	
<b>Turkey</b>	<b>25 reports requested</b>
All reports received: Conventions Nos. 14, 26, 29, 42, 45, 81, 87, 95, 98, 99, 102, 105, 115, 118, 119, 127, 135, 138, 153, 155, 161, 167, 176, 182, 187	
<b>Turkmenistan</b>	<b>4 reports requested</b>
All reports received: Conventions Nos. 29, 105, 138, 182	
<b>Uganda</b>	<b>22 reports requested</b>
· 8 reports received: Conventions Nos. 12, 19, 45, 87, 98, 100, 111, 122	
· 14 reports not received: Conventions Nos. 11, 17, 26, 29, 81, 94, 95, 105, 123, 124, 138, 143, 162, 182	
<b>Ukraine</b>	<b>28 reports requested</b>
· 26 reports received: Conventions Nos. 14, 29, 45, 47, 81, 95, 103, 105, 106, 119, 120, 129, 131, 132, 138, 139, 150, 153, 155, 160, 161, 173, 174, 176, 182, 184	
· 2 reports not received: Conventions Nos. 102, 115	
<b>United Arab Emirates</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 1, 29, 81, 89, 105, 138, 182	
<b>United Kingdom</b>	<b>18 reports requested</b>
All reports received: Conventions Nos. 12, 17, 19, 24, 25, 29, 42, 81, 102, 105, 115, 120, 138, 148, 150, 160, 182, 187	

<b>United Kingdom - Anguilla</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 12, 14, 17, 19, 26, 29, 42, 85, 99, 101, 105, 148	
<b>United Kingdom - Bermuda</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 12, 17, 19, 29, 42, 105, 115	
<b>United Kingdom - British Virgin Islands</b>	<b>8 reports requested</b>
All reports received: Conventions Nos. 12, 14, 17, 19, 26, 29, 85, 105	
<b>United Kingdom - Falkland Islands (Malvinas)</b>	<b>9 reports requested</b>
All reports received: Conventions Nos. 12, 14, 17, 19, 29, 42, 45, 105, 182	
<b>United Kingdom - Gibraltar</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 12, 17, 19, 29, 42, 45, 81, 105, 150, 160	
<b>United Kingdom - Guernsey</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 12, 17, 19, 24, 25, 29, 42, 63, 81, 105, 115, 148, 150, 182	
<b>United Kingdom - Isle of Man</b>	<b>14 reports requested</b>
All reports received: Conventions Nos. 12, 17, 19, 24, 25, 29, 42, 81, 99, 101, 102, 105, 150, 160	
<b>United Kingdom - Jersey</b>	<b>12 reports requested</b>
All reports received: Conventions Nos. 12, 17, 19, 24, 25, 29, 42, 81, 99, 105, 115, 160	
<b>United Kingdom - Montserrat</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 12, 14, 17, 19, 26, 29, 42, 85, 95, 105	
<b>United Kingdom - St Helena</b>	<b>10 reports requested</b>
All reports received: Conventions Nos. 12, 14, 17, 19, 29, 63, 85, 105, 150, 182	
<b>United States</b>	<b>5 reports requested</b>
· 3 reports received: Conventions Nos. 105, 160, 176	
· 2 reports not received: Conventions Nos. 150, 182	
<b>Uruguay</b>	<b>37 reports requested</b>
All reports received: Conventions Nos. 1, 13, 14, 19, 29, 30, 63, 81, 95, 98, 102, 103, 105, 106, 115, 118, 119, 120, 121, 128, 129, 130, 131, 132, 136, 138, 139, 148, 150, 153, 155, 161, 162, 167, 176, 182, 184	
<b>Uzbekistan</b>	<b>7 reports requested</b>
All reports received: Conventions Nos. 29, 47, 52, 103, 105, 138, 182	
<b>Vanuatu</b>	<b>4 reports requested</b>
· No reports received: Conventions Nos. 29, 105, 182, 185	
<b>Venezuela, Bolivarian Republic of</b>	<b>24 reports requested</b>
All reports received: Conventions Nos. 1, 3, 13, 14, 19, 26, 29, 45, 81, 95, 102, 105, 118, 120, 121, 127, 128, 130, 138, 139, 150, 153, 155, 182	
<b>Viet Nam</b>	<b>10 reports requested</b>
· 1 report received: Convention No. 122	
· 9 reports not received: Conventions Nos. 14, 29, 45, 81, 120, 138, 155, 182, 187	
<b>Yemen</b>	<b>12 reports requested</b>
· 6 reports received: Conventions Nos. 14, 29, 105, 132, 138, 182	
· 6 reports not received: Conventions Nos. 19, 58, 81, 95, 131, 185	
<b>Zambia</b>	<b>20 reports requested</b>
· 18 reports received: Conventions Nos. 12, 17, 18, 19, 29, 81, 95, 103, 105, 129, 131, 136, 138, 150, 155, 173, 182, 187	
· 2 reports not received: Conventions Nos. 148, 176	

**Zimbabwe****19 reports requested**

- 
- 17 reports received: Conventions Nos. 14, 19, 26, 29, 81, 99, 105, 129, 138, 150, 155, 161, 162, 170, 174, 176, 182
  - 2 reports not received: Conventions Nos. 87, 98
- 

**Grand Total**

A total of 1,788 reports (article 22) were requested,  
of which 1,217 reports (68.06 per cent) were received.

A total of 219 reports (article 35) were requested,  
of which 202 reports (92.24 per cent) were received.

---

**Appendix II. Statistical table of reports received  
on ratified Conventions as at 7 December 2019**  
(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%
<b>As a result of a decision by the Governing Body, detailed reports were requested as from 1959 until 1976 only on certain Conventions</b>							
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
<b>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</b>				
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%
<b>As a result of a decision by the Governing Body (November 1993), detailed reports on only five Conventions were exceptionally requested in 1995</b>				
1995	1252	479 38.2%	824 65.8%	988 78.9%
<b>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</b>				
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
<b>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</b>				
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%
<b>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</b>				
2019	1788	645 36.1%	1217 68.1%	

### Appendix III. List of observations made by employers' and workers' organizations

<b>Albania</b>	
<hr/>	<b>on Conventions Nos</b>
• International Trade Union Confederation (ITUC)	87, 98
<b>Algeria</b>	
<hr/>	<b>on Conventions Nos</b>
• International Trade Union Confederation (ITUC)	87, 98
• Trade Union Confederation of Productive Workers (COSYFOP)	87, 98, 135, 144
<b>Angola</b>	
<hr/>	<b>on Conventions Nos</b>
• National Union of Angolan Workers (UNTA)	18, 81, 87, 98, 100
<b>Argentina</b>	
<hr/>	<b>on Conventions Nos</b>
• Argentine Federation of the Judiciary (FJA)	154
• Confederation of Workers of Argentina (CTA Autonomous)	87, 98, 135
• Confederation of Workers of Argentina (CTA Workers)	11, 87, 98, 135, 144, 151, 154
• General Confederation of Labour of the Argentine Republic (CGT RA)	11, 87, 98, 144, 151, 154
• Industrial Confederation of Argentina (UIA)	87, 98, 135, 144, 154
• International Organisation of Employers (IOE)	169
• International Trade Union Confederation (ITUC)	87
• Rural Association of Argentina (SRA)	11
<b>Armenia</b>	
<hr/>	<b>on Conventions Nos</b>
• Confederation of Trade Unions of Armenia (CTUA)	87, 135
<b>Australia</b>	
<hr/>	<b>on Conventions Nos</b>
• International Trade Union Confederation (ITUC)	87, 98
<b>Austria</b>	
<hr/>	<b>on Conventions Nos</b>
• Federal Chamber of Labour (BAK)	87, 98, 135
<b>Bangladesh</b>	
<hr/>	<b>on Conventions Nos</b>
• International Trade Union Confederation (ITUC)	87, 98
<b>Barbados</b>	
<hr/>	<b>on Convention No.</b>
• International Organisation of Employers (IOE)	122
<b>Belarus</b>	
<hr/>	<b>on Conventions Nos</b>
• Belarusian Congress of Democratic Trade Unions (BKDP)	87, 98, 144, 154
• International Organisation of Employers (IOE)	29
• International Trade Union Confederation (ITUC)	29, 87
<b>Belgium</b>	
<hr/>	<b>on Conventions Nos</b>
• General Confederation of Liberal Trade Unions of Belgium (CGSLB); Confederation of Christian Trade Unions (CSC); General Labour Federation of Belgium (FGTB)	11, 87, 98, 151, 154, 172
<b>Benin</b>	
<hr/>	<b>on Conventions Nos</b>
• Confederation of United Unions of Benin (CSUB); Confederation of Independent Trade Unions of Benin (COSI-Bénin); Confederation of Autonomous Trade Unions of Benin (CSA-Benin); General Confederation of Workers of Benin (CGTB); National Federation of Workers' Unions of Benin (UNSTB)	87
• Trade Union Confederation of Workers of Benin (CSTB)	87, 98

## Bolivia, Plurinational State of

- Confederation of Private Employers of Bolivia (CEPB); International Organisation of Employers (IOE)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

98, 131, 138  
169  
131

## Brazil

- Building and Wood Workers' International (BWI); Education International (EI); IndustriALL Global Union (IndustriALL); International Trade Union Confederation (ITUC); International Transport Workers' Federation (ITF); International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF); Public Services International (PSI); UNI Global Union
- International Organisation of Employers (IOE)
- National Confederation of Industry (CNI)
- National Confederation of Transport (CNT)
- National Union of Labour Inspectors (SINAIT)
- New Workers Trade Union Confederation (NCST)
- Single Confederation of Workers (CUT); International Trade Union Confederation (ITUC)
- Union of Civilian Police Officers of the state of Paraná (SINCLAPOL)

### on Conventions Nos

98  
98, 169  
98  
11, 98, 135, 141, 151, 154  
81, 155  
98, 135, 144, 151, 154  
98, 154  
29, 105

## Bulgaria

- Bulgarian Industrial Capital Association (BICA)
- Confederation of Independent Trade Unions in Bulgaria (CITUB)
- Union for Private Economic Enterprise (UPEE)

### on Conventions Nos

11, 87, 98, 144  
87, 98, 144  
98

## Burkina Faso

- General Labour Confederation of Burkina Faso (CGT-B); National Confederation of Workers of Burkina (CNTB); Trade Union Confederation of Burkina Faso (CSB); Force ouvrière/National Union of Trade Unions (FO/UNS); National Organization of Free Trade Unions (ONSL); Trade Union of Workers of Burkina Faso (USTB)

### on Conventions Nos

87, 98

## Cabo Verde

- International Trade Union Confederation (ITUC)

### on Convention No.

182

## Cambodia

- International Trade Union Confederation (ITUC)

### on Conventions Nos

87, 98

## Cameroon

- Cameroon National Seafarers Union (SYNIMAC)
- Cameroon National Seafarers Union (SYNIMAC); International Transport Workers' Federation (ITF); Confederation of Labour of Cameroon (CCT)
- Free National Union of Dockers and Related Activities of Cameroon (SYNALIDOACC)

### on Conventions Nos

9, 16, 108, 144, 146  
87  
87

## Canada

- Canadian Labour Congress (CLC)

### on Conventions Nos

87, 98, 144

## Central African Republic

- International Organisation of Employers (IOE)

### on Convention No.

169

## Chad

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

122  
87

## Chile

	on Conventions Nos
• Confederation of Copper Workers (CTC)	87, 98
• Confederation of Production and Commerce (CPC)	144
• Federation of Workers Trade Unions of Chile (FESITRACH)	87, 98
• General Confederation of Public and Private Sector Workers (CGTP)	87, 98
• International Organisation of Employers (IOE)	169
• International Trade Union Confederation (ITUC)	87, 98
• National Association of Fiscal Employees (ANEF)	87
• National Confederation of Trade Unions of the Bread and Food Industry Workers (CONAPAN)	169
• Single Central Organization of Workers of Chile (CUT-Chile)	87, 98, 144
• Trade Union N.1 of Promotora CMR Falabella	87, 98
• World Federation of Trade Unions (WFTU)	87, 98

## China

• All-China Federation of Trade Unions (ACFTU)	on Conventions Nos 155, 167, 170
--	-------------------------------------

## China - Hong Kong Special Administrative Region

• International Trade Union Confederation (ITUC); Hong Kong Confederation of Trade Unions (HKCTU)	on Conventions Nos 87, 98
---	------------------------------

## China - Macau Special Administrative Region

• Macau Civil Servants' Association (ATFPM)	on Conventions Nos 87, 98
---	------------------------------

## Colombia

• Colombian Association of Airline Pilots (ACDAC); Confederation of Workers of Colombia (CTC); International Trade Union Confederation (ITUC)	on Conventions Nos 87, 98, 154
• Colombian Association of Flight Attendants (ACAV); Union of Air Transport Workers of Colombia (SINTRATAC); International Transport Workers' Federation (ITF)	87, 98
• General Confederation of Labour (CGT)	87, 98, 144
• International Organisation of Employers (IOE)	169
• International Trade Union Confederation (ITUC)	87, 98
• National Association of Ecopetrol Retirees (ANPE2010); Single Confederation of Workers of Colombia (CUT); General Confederation of Labour (CGT); Confederation of Workers of Colombia (CTC)	95
• National Employers Association of Colombia (ANDI); International Organisation of Employers (IOE)	87, 98, 144
• Single Confederation of Workers of Colombia (CUT); Confederation of Workers of Colombia (CTC)	8, 9, 22, 23, 87, 98

## Costa Rica

• Confederation of Workers Rerum Novarum (CTRN)	on Conventions Nos 87, 98, 144
• Costa Rican Federation of Chambers and Associations of Private Enterprise (UCCAEP); International Organisation of Employers (IOE)	87, 98, 137, 144
• International Organisation of Employers (IOE)	169

## Côte d'Ivoire

• General Confederation of Enterprises of Côte d'Ivoire (CGECI)	on Conventions Nos 87, 98, 100, 111, 144, 150, 155, 161, 171, 187
• International Trade Union Confederation (ITUC)	87

## Czech Republic

• Confederation of Industry and Transport (SP ČR); Confederation of Employers' and Entrepreneurs' Associations (KZPS); Czech Confederation of Commerce and Tourism (SOCR)	on Conventions Nos 98, 154
• Czech-Moravian Confederation of Trade Unions (CM KOS)	87, 98, 154

<b>Denmark</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Danish Trade Union Confederation (FH)</li> <li>• International Organisation of Employers (IOE)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98 169</p>
<b>Denmark (Greenland)</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Association of Fishers and Hunters in Greenland (KNAPK)</li> <li>• Greenland Business Association</li> <li>• Greenland Organization for Public Employees (AK)</li> <li>• Sulinermik Inuussutissarsiateqartut Kattuffiat (SIK)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>98, 126 16 7, 87, 98, 126 100</p>
<b>Djibouti</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Education International (EI)</li> <li>• International Organisation of Employers (IOE)</li> <li>• Labour Union of Djibouti (UDT); General Union of Djibouti Workers (UGTD)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98 122 87, 98</p>
<b>Dominican Republic</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Autonomous Confederation of Workers' Unions (CASC); National Confederation of Dominican Workers (CNTD); National Confederation of Trade Union Unity (CNUS)</li> <li>• Ibero-American Confederation of Labour Inspectors (CIIT)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98, 102, 144  81</p>
<b>Ecuador</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> <li>• International Trade Union Confederation (ITUC)</li> <li>• Public Services International (PSI) in Ecuador; National Federation of Education Workers (UNE)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>169 87, 98 87, 98, 144</p>
<b>Egypt</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Convention No.</b></p> <p>87</p>
<b>El Salvador</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Trade Union Confederation (ITUC)</li> <li>• National Business Association (ANEP)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>144 144</p>
<b>Eswatini</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Education International (EI)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98 87</p>
<b>Ethiopia</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Education International (EI)</li> <li>• International Organisation of Employers (IOE)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98 138 138</p>
<b>Fiji</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Fiji Trades Union Congress (FTUC)</li> <li>• International Organisation of Employers (IOE)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98 169 87, 98</p>
<b>Finland</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Central Organization of Finnish Trade Unions (SAK)</li> <li>• Central Organization of Finnish Trade Unions (SAK); Finnish Confederation of Professionals (STTK); Confederation of Unions for Professional and Managerial Staff in Finland (AKAVA)</li> <li>• Federation of Finnish Entreprises</li> <li>• Finnish Confederation of Professionals (STTK)</li> <li>• Finnish Seamen's Union (FSU)</li> <li>• State Employer's Office (VTML)</li> </ul>	<p><b>on Conventions Nos</b></p> <p>87, 98 137, 144, 152  87, 98 87, 98 108, MLC, 2006 144</p>

## France

---

- General Confederation of Labour - Force ouvrière (CGT-FO)

on Conventions Nos  
87, 98, 144, 149

## Gabon

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Georgia

---

- Georgian Trade Unions Confederation (GTUC)
- International Organisation of Employers (IOE)

on Conventions Nos  
100, 111  
122

## Germany

---

- Confederation of German Employers' Associations (BDA)
- Food, Beverages and Catering Union (NGG)
- German Confederation of Trade Unions (DGB)
- International Organisation of Employers (IOE)

on Conventions Nos  
97  
172  
97, 100, 111, 122, 189  
122

## Greece

---

- Greek General Confederation of Labour (GSEE)
- Hellenic Federation of Enterprises and Industries (SEV); International Organisation of Employers (IOE)
- Hellenic Military Medical Corps Association (ESTIA)
- International Organisation of Employers (IOE)

on Conventions Nos  
29, 87, 98, 100, 111, 122, 149, 154,  
156  
98, 144, 150, 160  
29  
122

## Guatemala

---

- Autonomous Popular Trade Union Movement; Global Unions of Guatemala
- Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos  
169  
87, 98, 169  
122, 169  
87, 98

## Guinea

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Haiti

---

- Confederation of Public and Private Sector Workers (CTSP)

on Conventions Nos  
1, 12, 14, 17, 19, 24, 25, 29, 30, 42, 77,  
78, 81, 87, 98, 100, 106, 111, 138, 182

## Honduras

---

- General Confederation of Workers (CGT); Workers' Confederation of Honduras (CTH)
- Honduran National Business Council (COHEP)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos  
87, 100, 111, 122  
87, 100, 111, 122, 169  
87, 122, 169  
87

## Hungary

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Iceland

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## India

---

- Centre of Indian Trade Unions (CITU)
- Council of Indian Employers (CIE)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos  
144  
81  
122  
81

## Iran, Islamic Republic of

- International Organisation of Employers (IOE)

on Convention No.

122

## Iraq

- Conference of Iraq Federations and Workers Unions (CIFWU); General Federation of Iraqi Trade Unions (GFITU)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87, 98

122

182

## Ireland

- International Organisation of Employers (IOE)

on Convention No.

122

## Israel

- International Organisation of Employers (IOE)

on Convention No.

122

## Italy

- General Confederation of Industry (CONFINDUSTRIA)
- International Organisation of Employers (IOE)
- Italian Confederation of Workers' Trade Unions (CISL); Italian General Confederation of Labour (CGIL); Italian Union of Labour (UIL)
- Italian General Confederation of Labour (CGIL)

on Conventions Nos

100

122

97

189

## Jamaica

- International Organisation of Employers (IOE)

on Convention No.

122

## Japan

- Apaken Kobe (Casual/Temporary/Part-time Non-regular Workers' Union) ; Rentai Union Sugunami; Rentai Workers' Union, Itabashi-ku Section ; Union Rakuda (Kyoto Municipality Related Workers' Independent Union)
- Federation of Korean Trade Unions (FKTU); Korean Confederation of Trade Unions (KCTU)
- International Organisation of Employers (IOE)
- Japan Business Federation (NIPPON KEIDANREN)
- Japan Business Federation (NIPPON KEIDANREN); International Organisation of Employers (IOE)
- Japanese Trade Union Confederation (JTUC-RENGO)

on Conventions Nos

87, 98

29

122

87

87, 100, 122, 156

87, 100, 122, 156

## Jordan

- International Organisation of Employers (IOE)

on Convention No.

122

## Kazakhstan

- Federation of Trade Unions of the Republic of Kazakhstan (FPRK)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

87

87, 122

87

## Korea, Republic of

- Federation of Korean Trade Unions (FKTU)
- International Organisation of Employers (IOE)
- Korea Employers' Federation (KEF)
- Korean Confederation of Trade Unions (KCTU)

on Conventions Nos

100, 111, 156

122

111, 122, 156

100, 111, 122, 156

## Kyrgyzstan

- International Organisation of Employers (IOE)
- Kyrgyzstan Federation of Trade Unions (KFTU)

on Conventions Nos

122

87

## Lao People's Democratic Republic

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

on Conventions Nos

182

182

<b>Latvia</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Free Trade Union Confederation of Latvia (FTUCL)</li> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Conventions Nos 100, 122, 142 122</p>
<b>Lebanon</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Convention No. 122</p>
<b>Libya</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p>on Conventions Nos 111, 122 111</p>
<b>Lithuania</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Convention No. 122</p>
<b>Luxembourg</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Convention No. 169</p>
<b>Madagascar</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Convention No. 122</p>
<b>Malaysia</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Malaysian Trade Unions Congress (MTUC)</li> </ul>	<p>on Convention No. 98</p>
<b>Mali</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Convention No. 122</p>
<b>Mauritania</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Free Confederation of Mauritanian Workers (CLTM)</li> <li>• General Confederation of Workers of Mauritania (CGTM)</li> <li>• International Organisation of Employers (IOE)</li> <li>• International Trade Union Confederation (ITUC)</li> </ul>	<p>on Conventions Nos 29, 94, 96, 100, 105, 111, 122, 138, 182 29, 100, 105, 138, 182 122 29, 105</p>
<b>Mexico</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• Autonomous Confederation of Workers and Employees of Mexico (CATEM)</li> <li>• Confederation of Employers of the Mexican Republic (COPARMEX)</li> <li>• Confederation of Industrial Chambers of the United States of Mexico (CONCAMIN)</li> <li>• Confederation of Workers of Mexico (CTM)</li> <li>• International Confederation of Workers (CIT)</li> <li>• International Organisation of Employers (IOE)</li> <li>• National Union of Workers (UNT)</li> <li>• Regional Confederation of Mexican Workers (CROM)</li> </ul>	<p>on Conventions Nos 96, 100, 111, 159 96, 100, 105, 110, 111, 142, 144, 159, 169, 172 96, 100, 111, 159 96, 100, 111, 159, 169 96, 100, 111, 159 169 98 100, 111, 159</p>
<b>Moldova, Republic of</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> <li>• National Confederation of Trade Unions of Moldova (CNSM)</li> </ul>	<p>on Conventions Nos 122 81, 129</p>
<b>Mongolia</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Convention No. 122</p>
<b>Montenegro</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> </ul>	<p>on Convention No. 122</p>
<b>Morocco</b>	
<hr/>	
<ul style="list-style-type: none"> <li>• International Organisation of Employers (IOE)</li> <li>• National Union of Labour in Morocco (UNTM)</li> </ul>	<p>on Conventions Nos 122 94, 100, 122, 158, 181</p>

## Mozambique

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Myanmar

---

- International Trade Union Confederation (ITUC)

on Convention No.  
29

## Nepal

---

- International Organisation of Employers (IOE)

on Convention No.  
169

## Netherlands

---

- International Organisation of Employers (IOE)
- National Federation of Christian Trade Unions (CNV); Netherlands Trade Union Confederation (FNV); Trade Union Federation for Professionals (VCP)

on Conventions Nos  
122, 169  
88, 94, 100, 111, 122, 139, 140, 142,  
159, 170, 181

## Netherlands (Aruba)

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Netherlands (Caribbean Part of the Netherlands)

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Netherlands (Curaçao)

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Netherlands (Sint Maarten)

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## New Zealand

---

- Business New Zealand
- International Organisation of Employers (IOE)
- New Zealand Council of Trade Unions (NZCTU)

on Conventions Nos  
82, 88, 100, 111, 122  
122  
88, 100, 111, 122

## New Zealand (Tokelau)

---

- Business New Zealand

on Conventions Nos  
82, 100, 111

## Nicaragua

---

- International Organisation of Employers (IOE)

on Conventions Nos  
122, 169

## North Macedonia

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Norway

---

- Confederation of Norwegian Enterprise (NHO)
- Confederation of Unions for Professionals (Unio)
- International Organisation of Employers (IOE)
- Norwegian Confederation of Trade Unions (LO)

on Conventions Nos  
100  
100, 111  
122, 169  
100

## Panama

---

- National Confederation of United Independent Unions (CONUSI)

on Conventions Nos  
29, 81, 138, 182

## Papua New Guinea

---

- International Organisation of Employers (IOE)

on Convention No.  
122

## Paraguay

---

- Central Confederation of Workers Authentic (CUT-A)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- National Confederation of Workers (CNT)

on Conventions Nos  
29, 81, 138, 182  
169  
29  
29, 81, 138, 182

## Peru

---

- Autonomous Workers' Confederation of Peru (CATP)
- International Organisation of Employers (IOE)

### on Conventions Nos

81, 144, 169  
169

## Philippines

---

- Education International (EI)
- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF)

### on Conventions Nos

87  
87  
87

## Poland

---

- Independent and Self-Governing Trade Union "Solidarnosc"

### on Conventions Nos

81, 129, 138

## Portugal

---

- Confederation of Portuguese Business (CIP)
- General Confederation of Portuguese Workers - National Trade Unions (CGTP-IN)
- General Workers' Union (UGT)

### on Conventions Nos

6, 29, 77, 78, 81, 105, 124, 129, 138, 182, 187, 189  
6, 29, 77, 78, 81, 105, 129, 138, 182, 189  
6, 29, 77, 78, 81, 105, 124, 129, 138, 182, 187, 189

## Romania

---

- International Organisation of Employers (IOE)

### on Convention No.

122

## Russian Federation

---

- Confederation of Labour of Russia (KTR)

### on Conventions Nos

29, 81, 105

## Rwanda

---

- International Organisation of Employers (IOE)

### on Convention No.

122

## Saint Vincent and the Grenadines

---

- International Organisation of Employers (IOE)

### on Convention No.

122

## Senegal

---

- International Trade Union Confederation (ITUC)

### on Convention No.

182

## Serbia

---

- Confederation of Autonomous Trade Unions of Serbia (CATUS)
- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Serbian Association of Employers (SAE)
- Trade Union Confederation 'Nezavisnost'

### on Conventions Nos

29, 81, 87, 90, 105, 129, 144, 150, 182  
81, 129  
81, 129  
29, 81, 87, 90, 105, 129, 144, 150, 182  
81, 87, 129, 144, 150, 182

## Seychelles

---

- General Employer Trade Union of Seychelles (GETUS)
- Seychelles Federation of Workers' Unions (SFWU)

### on Conventions Nos

81, 105, 138, 182  
29, 81, 105, 138, 182

## Spain

---

- General Union of Workers (UGT)
- International Organisation of Employers (IOE)
- Spanish Confederation of Employers' Organizations (CEOE); International Organisation of Employers (IOE)
- Trade Union Confederation of Workers' Commissions (CCOO)

### on Conventions Nos

29, 77, 78, 81, 105, 138, 182, 29  
169  
29, 77, 78, 81, 129, 182  
29, 77, 78, 79, 81, 90, 105, 123, 124

## Sri Lanka

---

- International Trade Union Confederation (ITUC)

### on Convention No.

98

## Tajikistan

---

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

122  
111

## Thailand

---

- International Transport Workers' Federation (ITF)

### on Convention No.

29

## Trinidad and Tobago

---

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

122  
87, 98

## Turkey

---

- Confederation of Public Employees' Trade Unions (KESK)
- International Trade Union Confederation (ITUC)
- International Transport Workers' Federation (ITF)
- Turkish Confederation of Employers' Associations (TISK)

### on Conventions Nos

87, 98  
87  
87  
14, 26, 29, 42, 81, 87, 95, 98, 102, 105,  
115, 118, 119, 127, 135, 138, 155, 161,  
182, 187

## Turkmenistan

---

- International Trade Union Confederation (ITUC)

### on Conventions Nos

105, 182

## Uganda

---

- International Organisation of Employers (IOE)

### on Convention No.

122

## Ukraine

---

- Confederation of Free Trade Unions of Ukraine (KVPU)
- International Trade Union Confederation (ITUC)

### on Conventions Nos

81, 95, 102, 129, 131, 138, 155, 174,  
176, 184  
131

## United Kingdom

---

- Trades Union Congress (TUC)

### on Conventions Nos

29, 81, 105, 182, 29

## United States

---

- American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

### on Convention No.

182

## Uruguay

---

- International Organisation of Employers (IOE)
- International Trade Union Confederation (ITUC)
- Inter-Union Assembly of Workers - Workers' National Convention (PIT-CNT)
- National Chamber of Commerce and Services of Uruguay (CNCS); Chamber of Industries of Uruguay (CIU); International Organisation of Employers (IOE)

### on Conventions Nos

98  
98  
95, 111, 120, 153, 155, 161  
98, 144

## Uzbekistan

---

- Council of the Federation of Trade Unions of the Uzbekistan (CFTUU)
- International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF)

### on Conventions Nos

138, 182  
29, 47, 105, 138, 182

## Venezuela, Bolivarian Republic of

---

- Bolivarian Socialist Confederation of Workers (CBST)
- Confederation of Workers of Venezuela (CTV)
- Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS); International Organisation of Employers (IOE)
- Federation of University Teachers' Associations of Venezuela (FAPUV)
- International Organisation of Employers (IOE)

### on Conventions Nos

87, 98, 117, 122, 140, 169  
26, 95, 105  
26, 87, 144  
98  
122, 169

**Viet Nam**

- 
- International Organisation of Employers (IOE)
  - Viet Nam General Confederation of Labour (VGCL)
  - Vietnam Chamber of Commerce and Industry (VCCI)
  - Vietnam Cooperative Alliance (VCA)

**on Conventions Nos**

122  
122  
122  
122

**Yemen**

- 
- International Organisation of Employers (IOE)
  - International Trade Union Confederation (ITUC)

**on Conventions Nos**

182  
182

**Zambia**

- 
- International Trade Union Confederation (ITUC)

**on Convention No.**

131

**Zimbabwe**

- 
- International Trade Union Confederation (ITUC)
  - Zimbabwe Congress of Trade Unions (ZCTU)

**on Conventions Nos**

87  
26, 29, 87, 98, 99, 100, 105, 111, 138,  
182

**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 267th 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), as well as 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 Convention, 2019 (No. 190), and the Violence and Harassment Recommendation 2019 (No. 206), adopted at the 108th Session of the Conference (June 2019).

The summarized information includes communications that were forwarded to the Director-General of the International Labour Office after the closure of the 108th Session of the Conference (June 2019) and which could not therefore be laid before the Conference at that session.

**Afghanistan.** The Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 203, were submitted to the National Assembly (*Milli Majlis*) on 11 March 2019.

**Azerbaijan.** The Protocol of 2014, adopted by the Conference at its 103rd Session, Convention No. 190 and its Recommendation (No. 206), were submitted to the National Assembly Parliament on 4 November 2019.

**Belarus.** Recommendation No. 205 was submitted to the National Assembly on 23 July 2019.

**Bosnia and Herzegovina.** Recommendation No. 205 was submitted to the Parliamentary Assembly on 12 December 2018.

**Burkina Faso.** Recommendation No. 203 and Recommendation No. 204 were submitted to Parliament on 20 June 2017.

**Cameroon.** Convention No. 190 and the Recommendation No. 206 were submitted to Parliament on 30 September 2019.

**Canada.** Recommendation No. 205 was submitted to Parliament on 12 December 2018.

**China.** Recommendation No. 204 was submitted to the People's Assembly on 15 March 2019.

**Cook Islands.** Recommendation No. 204 was submitted to Parliament on 21 September 2018. Recommendation No. 205 was submitted to Parliament on 20 September 2018.

**Egypt.** Recommendation No. 205 was submitted to the House of Representatives on 4 June 2019.

**Germany.** Recommendation No. 205 was submitted to Parliament on 15 May 2018.

**Greece.** Recommendation No. 205 was submitted to Parliament on 4 December 2018.

**Guinea-Bissau.** Recommendation No. 205 was submitted to the National People's Assembly on 13 April 2019.

**Islamic Republic of Iran.** Convention No. 190 and Recommendation No. 206, were submitted to the Islamic Consultative Assembly on 13 August 2019.

**Ireland.** Recommendation No. 205 was submitted to the Parliament (*Oireachtas*) on 15 February 2019.

**Italy.** Recommendation No. 205 was submitted to Parliament on 21 June 2018.

**Jamaica.** Recommendation No. 205 was submitted to Parliament on 8 May 2018.

**Lesotho.** The Protocol of 2014 to the Forced Labour Convention, 1930, and Recommendation No. 204 were submitted to Parliament on 29 May 2019.

**Luxembourg.** Convention No. 190 and Recommendation No. 206 were submitted to the Chamber of Deputies on 23 September 2019.

**Malawi.** The Protocol of 2014 was submitted to the National Assembly on 7 November 2019.

**Mauritius.** Recommendation No. 205 was submitted to the National Assembly on 5 December 2018.

**Mexico.** Recommendation No. 205 was submitted to the Congress of the Union on 27 November 2017.

**Namibia.** Recommendation No. 205 was submitted to Parliament on 12 October 2017.

**Paraguay.** Recommendation No. 204 was submitted to the National Congress on 12 October 2018.

**Qatar.** Recommendation No. 205 was submitted to the Council of Ministers and the Shura Council on 6 November 2019.

**Samoa.** The Protocol of 2014 to the Forced Labour Convention, 1930, Recommendation No. 203, Recommendation No. 204 and Recommendation No. 205 were submitted to the Legislative Assembly on 18 December 2018.

**Senegal.** Recommendation No. 205 was submitted to the National Assembly on 5 December 2018.

**Serbia.** Recommendation No. 204 was submitted to the National Assembly of Serbia on 10 May 2019.

**Sweden.** Recommendation No. 205 was submitted to the *Riksdag* on 2 April 2019.

**Togo.** Recommendation No. 205 was submitted to the National Assembly on 3 August 2019.

**Trinidad and Tobago.** The Protocol of 2014 to the Forced Labour Convention, 1930, Recommendation No. 203, Recommendation No. 204 and Recommendation No. 205 were submitted to Parliament on 20 November 2018.

**Turkmenistan.** The Protocol of 2014 to the Forced Labour Convention, 1930, Recommendation No. 203, Recommendation No. 204 and Recommendation No. 205, were submitted to the National Assembly (Mejlis) on 16 August 2019.

**Ukraine.** Recommendation No. 205 was submitted to the Verkhovna Rada on 25 June 2019.

**United Kingdom.** Recommendation No. 205 was submitted to Parliament on 22 October 2019.

**United States.** Recommendation No. 205 was submitted to Congress on 12 September 2018.

**Uzbekistan.** Recommendation No. 205 was submitted to the Supreme Assembly (*Oliy Majlis*) on 7 June 2018.

**Appendix V. Information supplied by governments with regard to the obligation to submit Conventions and Recommendations to the competent authorities**

(31st to 108th Sessions of the International Labour Conference, 1948-2019)

*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) and 107th Session (June 2018).*

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)
---	---

---

**Afghanistan**

31-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
---	---------------

---

**Albania**

79-81, 82 (C176, R183), 83, 84 (C178, P147, R186), 85, 87, 88, 90 (P155), 91, 94, 95 (C187, R197)	78, 82 (P081), 84 (C179, C180, R185, R187), 86, 89, 90 (R193, R194), 92, 95 (R198), 96, 99-101, 103, 104, 106, 108
---	--

---

**Algeria**

47-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
---	---------------

---

**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
--	--

---

**Antigua and Barbuda**

68-72, 74-82, 84, 87, 94, 100	83, 85, 86, 88-92, 95, 96, 99, 101, 103, 104, 106, 108
-------------------------------	--

---

**Argentina**

31-56, 58-72, 74-90, 92, 94-96, 99-101, 103	91, 104, 106, 108
---	-------------------

---

**Armenia**

80-92, 94-96, 99-101	103, 104, 106, 108
----------------------	--------------------

---

**Australia**

31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
---	-----

---

**Austria**

31-56, 58-72, 74-92, 94-96, 99, 101, 103 (P029)	100, 103 (R203), 104, 106, 108
---	--------------------------------

---

**Azerbaijan**

79-92, 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)
<b>Bahamas</b>	
61-72, 74-84, 87, 91, 94	85, 86, 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Bahrain</b>	
63-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Bangladesh</b>	
58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Barbados</b>	
51-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Belarus</b>	
37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Belgium</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Belize</b>	
68-72, 74-76, 84, 87, 88, 94	77-83, 85, 86, 89-92, 95, 96, 99-101, 103, 104, 106, 108
<b>Benin</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Bolivia, Plurinational State of</b>	
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 (P081, R183), 83 (R184), 84 (P147, R185, R186, R187), 85 (R188), 86, 88 (R191), 89 (R192), 90, 92, 94-96, 99, 101, 103, 104, 106, 108
<b>Bosnia and Herzegovina</b>	
80-92, 94-96, 99-101, 103, 104, 106	108
<b>Botswana</b>	
64-72, 74-92, 94-96, 99, 100	101, 103, 104, 106, 108
<b>Brazil</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Brunei Darussalam</b>	
	96, 99-101, 103, 104, 106, 108
<b>Bulgaria</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 106	104, 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)
<b>Burkina Faso</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104	<b>103 (R203), 106, 108</b>
<b>Burundi</b>	
47-56, 58-72, 74-92, 95, 96, 99-101, 103, 104, 106	<b>94, 108</b>
<b>Cabo Verde</b>	
65-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Cambodia</b>	
53-56, 58-72, 74-92, 94-96, 99-101, 103 (R203), 104	<b>103 (P029), 106, 108</b>
<b>Cameroon</b>	
44-56, 58-72, 74-92, 94-96, 101, 108	<b>99, 100, 103, 104, 106</b>
<b>Canada</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Central African Republic</b>	
45-56, 58-72, 74-92, 94-96	<b>99-101, 103, 104, 106, 108</b>
<b>Chad</b>	
45-56, 58-72, 74-92, 94-96	<b>99-101, 103, 104, 106, 108</b>
<b>Chile</b>	
31-56, 58-72, 74-82, 84 (C178, C179, C180, P147), 87, 94, 95 (C187, R197), 100	<b>83, 84 (R185, R186, R187), 85, 86, 88-92, 95 (R198), 96, 99, 101, 103, 104, 106, 108</b>
<b>China</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Colombia</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103	<b>104, 106, 108</b>
<b>Comoros</b>	
65-72, 74-78, 87	<b>79-86, 88-92, 94-96, 99-101, 103, 104, 106, 108</b>
<b>Congo</b>	
45-53, 54 (C131, C132), 55, 56, 58 (C138, R146), 59, 60 (C142, R150), 61, 62, 63 (C148, C149, R157), 64-66, 67 (C154, C155, C156), 68 (C158), 71 (C160, C161), 74, 75 (C167, C168), 76, 84, 87, 91, 94, 96	<b>54 (R135, R136), 58 (C137, R145), 60 (C141, C143, R149, R151), 63 (R156), 67 (R163, R164, R165), 68 (C157, P110, R166), 69, 70, 71 (R170, R171), 72, 75 (R175, R176), 77-83, 85, 86, 88-90, 92, 95, 99-101, 103, 104, 106, 108</b>
<b>Cook Islands</b>	
104, 106	<b>108</b>

	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)
<b>Costa Rica</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104, 106	103 (R203), 108
<b>Côte d'Ivoire</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Croatia</b>	80-85, 87, 91, 94	86, 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Cuba</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Cyprus</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Czech Republic</b>	80-92, 94-96, 99-101, 103, 104, 106	108
<b>Democratic Republic of the Congo</b>	45-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Denmark</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Djibouti</b>	64-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Dominica</b>	68-72, 74-79, 87	80-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Dominican Republic</b>	31-56, 58-72, 74-92, 94, 95, 99, 100	96, 101, 103, 104, 106, 108
<b>Ecuador</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103 (P029), 104	103 (R203), 106, 108
<b>Egypt</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>El Salvador</b>	31-56, 58-61, 63 (C149), 64, 67 (R164, R165, C155, C156), 69 (R168, C159), 71, 72, 74-81, 87, 90 (P155)	62, 63 (R156, R157, C148), 65, 66, 67 (R163, C154), 68, 69 (R167), 70, 82-86, 88, 89, 90 (R193, R194), 91, 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)
<b>Equatorial Guinea</b>	67-72, 74-79, 84, 87	80-83, 85, 86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Eritrea</b>	80-92, 94-96, 99-101	103, 104, 106, 108
<b>Estonia</b>	79-92, 94-96, 99-101, 103, 104, 106	108
<b>Eswatini</b>	60-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Ethiopia</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Fiji</b>	59-72, 74-82, 84, 85, 87, 89, 92, 94	83, 86, 88, 90, 91, 95, 96, 99-101, 103, 104, 106, 108
<b>Finland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>France</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Gabon</b>	45-56, 58-72, 74-81, 82 (C176), 83 (C177), 84, 85 (C181), 87, 89 (C184), 91, 94	82 (P081, R183), 83 (R184), 85 (R188), 86, 88, 89 (R192), 90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Gambia</b>	82-92, 94-96	99-101, 103, 104, 106, 108
<b>Georgia</b>	80-92, 94-96, 99-101	103, 104, 106, 108
<b>Germany</b>	34-56, 58-72, 74-76, 77 (C170, R177), 78-92, 94-96, 99-101, 103 (P029), 104, 106	77 (C171, P089, R178), 103 (R203), 108
<b>Ghana</b>	40-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106, 108
<b>Greece</b>	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)
<b>Grenada</b>	
66-72, 74-92, 94, 95, 100 (C189)	96, 99, 100 (R201), 101, 103, 104, 106, 108
<b>Guatemala</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Guinea</b>	
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
<b>Guinea - Bissau</b>	
63-72, 74-88, 94, 106	89-92, 95, 96, 99-101, 103, 104, 108
<b>Guyana</b>	
50-56, 58-72, 74-92, 94, 95, 100	96, 99, 101, 103, 104, 106, 108
<b>Haiti</b>	
31-56, 58-66, 67 (C156, R165), 69-72, 74, 75 (C167), 87	67 (C154, C155, R163, R164), 68, 75 (C168, R175, R176), 76-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Honduras</b>	
38-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Hungary</b>	
31-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Iceland</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>India</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Indonesia</b>	
33-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Iran, Islamic Republic of</b>	
31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 94-96, 108	90 (P155), 99-101, 103, 104, 106
<b>Iraq</b>	
31-56, 58-72, 74-87, 88 (C183), 89, 90 (P155), 91, 94, 95 (C187, R197), 96 (C188), 100 (C189)	88 (R191), 90 (R193, R194), 92, 95 (R198), 96 (R199), 99, 100 (R201), 101, 103, 104, 106, 108
<b>Ireland</b>	
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)
<b>Israel</b>	32-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Italy</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Jamaica</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Japan</b>	35-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Jordan</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103	104, 106, 108
<b>Kazakhstan</b>	82 (C176, R183), 87, 88, 91	80, 81, 82 (P081), 83-86, 89, 90, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Kenya</b>	48-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Kiribati</b>	91, 94	88-90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Korea, Republic of</b>	79-92, 94-96, 99-101, 103, 104, 106	108
<b>Kuwait</b>	45-56, 58-72, 74-76, 78, 79, 80 (C174), 81-85, 87, 88, 90, 91	77, 80 (R181), 86, 89, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Kyrgyzstan</b>	87, 89	79-86, 88, 90-92, 94-96, 99-101, 103, 104, 106, 108
<b>Lao People's Democratic Republic</b>	48-56, 58-72, 74-81, 82 (R183, C176), 83-92, 94-96, 99, 100, 103	82 (P081), 101, 104, 106, 108
<b>Latvia</b>	79-92, 94-96, 99-101, 103, 104, 106	108
<b>Lebanon</b>	32-56, 58-72, 74-92, 94-96	99-101, 103, 104, 106, 108
<b>Lesotho</b>	66-72, 74-92, 94-96, 100, 101, 103 (P029), 104	99, 103 (R203), 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)
<b>Liberia</b>	31-56, 58-72, 74-76, 77 (C170, C171, R177, R178), 78-81, 82 (C176, R183), 83-87, 91, 94	77 (P089), 82 (P081), 88-90, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Libya</b>	35-56, 58-72, 74-82, 87	83-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Lithuania</b>	79-92, 94-96, 99-101, 103, 104, 106	108
<b>Luxembourg</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106, 108	
<b>Madagascar</b>	45-56, 58-72, 74-91, 94-96, 100, 103 (P029)	92, 99, 101, 103 (R203), 104, 106, 108
<b>Malawi</b>	49-56, 58-72, 74-92, 94-96, 103 (P029)	99-101, 103 (R203), 104, 106, 108
<b>Malaysia</b>	41-56, 58-72, 74-92, 94, 95 (C187, R197)	95 (R198), 96, 99-101, 103, 104, 106, 108
<b>Maldives, Republic of</b>		99-101, 103, 104, 106, 108
<b>Mali</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Malta</b>	49-56, 58-72, 74-92, 94, 95, 103 (P029)	96, 99-101, 103 (R203), 104, 106, 108
<b>Marshall Islands</b>		99-101, 103, 104, 106, 108
<b>Mauritania</b>	45-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Mauritius</b>	53-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Mexico</b>	31-56, 58-72, 74-92, 94, 95 (R198), 99, 101, 106	95 (C187, R197), 96, 100, 103, 104, 108
<b>Moldova, Republic of</b>	79-91, 95 (C187, R197), 104	92, 94, 95 (R198), 96, 99-101, 103, 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)
<b>Mongolia</b>	
52-56, 58-72, 74-81, 82 (C176, R183), 83-92, 94-96, 99-101	<b>82 (P081), 103, 104, 106, 108</b>
<b>Montenegro</b>	
96, 99-101, 103, 104, 106	<b>108</b>
<b>Morocco</b>	
39-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Mozambique</b>	
61-72, 74-82, 87, 103 (P029), 104, 106	<b>83-86, 88-92, 94-96, 99-101, 103 (R203), 108</b>
<b>Myanmar</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Namibia</b>	
65-72, 74-92, 94-96, 99-101, 103 (P029), 104, 106	<b>103 (R203), 108</b>
<b>Nepal</b>	
51-56, 58-72, 74-92, 94-96, 99-101	<b>103, 104, 106, 108</b>
<b>Netherlands</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>New Zealand</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Nicaragua</b>	
40-56, 58-72, 74-92, 94-96, 99-101, 103	<b>104, 106, 108</b>
<b>Niger</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Nigeria</b>	
45-56, 58-72, 74-92, 94, 95, 100, 104	<b>96, 99, 101, 103, 106, 108</b>
<b>North Macedonia</b>	
80-83, 85, 87, 88, 95 (C187, R197)	<b>84, 86, 89-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108</b>
<b>Norway</b>	
31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>
<b>Oman</b>	
81-92, 95 (R197, R198), 99	<b>94, 95 (C187), 96, 100, 101, 103, 104, 106, 108</b>

	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)
<b>Pakistan</b>	31-56, 58-72, 74-80, 87, 91	81-86, 88-90, 92, 94-96, 99-101, 103, 104, 106, 108
<b>Palau</b>		101, 103, 104, 106, 108
<b>Panama</b>	31-56, 58-72, 74-87, 88 (R191), 89 (R192), 90 (R193, R194), 92, 94, 95 (R197, R198), 96 (R199), 99-101, 103, 104, 106	88 (C183), 89 (C184), 90 (P155), 91, 95 (C187), 96 (C188), 108
<b>Papua New Guinea</b>	61-72, 74-87	88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Paraguay</b>	40-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Peru</b>	31-56, 58-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Philippines</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Poland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Portugal</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Qatar</b>	58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Romania</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Russian Federation</b>	37-56, 58-72, 74-88, 91, 94, 95 (C187, R197), 103, 104	89, 90, 92, 95 (R198), 96, 99-101, 106, 108
<b>Rwanda</b>	47-56, 58-72, 74-79, 81, 85, 87, 95 (C187, R197)	80, 82-84, 86, 88-92, 94, 95 (R198), 96, 99-101, 103, 104, 106, 108
<b>Saint Kitts and Nevis</b>	84, 87, 94	83, 85, 86, 88-92, 95, 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)
<b>Saint Lucia</b>	
67 (C154, R163), 68 (C158, R166), 87	66, 67 (C155, C156, R164, R165), 68 (C157, P110), 69-72, 74-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<b>Saint Vincent and the Grenadines</b>	
84, 86, 87, 94	82, 83, 85, 88-92, 95, 96, 99-101, 103, 104, 106, 108
<b>Samoa</b>	
94-96, 99-101, 103, 104, 106	108
<b>San Marino</b>	
68-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Sao Tome and Principe</b>	
68-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Saudi Arabia</b>	
61-72, 74-92, 94-96, 99-101	103, 104, 106, 108
<b>Senegal</b>	
45-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Serbia</b>	
89-92, 94-96, 99-101, 103, 104, 106	108
<b>Seychelles</b>	
63-72, 74-88, 94	89-92, 95, 96, 99-101, 103, 104, 106, 108
<b>Sierra Leone</b>	
45-56, 58-61, 62 (C145, C147, R153, R155)	62 (C146, R154), 63-72, 74-92, 94-96, 99-101, 103, 104, 106, 108
<b>Singapore</b>	
50-56, 58-72, 74-92, 94-96, 99-101, 104	103, 106, 108
<b>Slovakia</b>	
80-92, 94-96, 99-101, 103, 104, 106	108
<b>Slovenia</b>	
79-92, 94-96, 99-101, 103, 104, 106	108
<b>Solomon Islands</b>	
74, 87	70-72, 75-86, 88-92, 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)
<b>Somalia</b>	45-56, 58-72, 74, 75, 87	76-86, 88-92, 94-96, 99-101, 103, 104, 106, 108
<b>South Africa</b>	81, 82 (C176, R183), 83-92, 94-96, 99-101	103, 104, 106, 108
<b>South Sudan</b>		101, 103, 104, 106, 108
<b>Spain</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Sri Lanka</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Sudan</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Suriname</b>	61-72, 74-92, 94-96, 99-101, 103	104, 106, 108
<b>Sweden</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Switzerland</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Syrian Arab Republic</b>	31-56, 58-65, 67, 68, 69 (C159, R167), 71, 72, 74-76, 77 (C170, R177), 84, 87-89, 90 (P155), 94	66, 69 (R168), 70, 77 (C171, P089, R178), 78-83, 85, 86, 90 (R193, R194), 91, 92, 95, 96, 99-101, 103, 104, 106, 108
<b>Tajikistan</b>	81-92, 94-96, 99-101	103, 104, 106, 108
<b>Tanzania, United Republic of</b>	46-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Thailand</b>	31-56, 58-72, 74-92, 94-96, 99, 100 (R201), 101, 103, 104	100 (C189), 106, 108
<b>Timor-Leste</b>	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)
<b>Togo</b>	44-56, 58-72, 74-90, 92, 94-96, 99-101, 103, 104, 106	91, 108
<b>Tonga</b>		106, 108
<b>Trinidad and Tobago</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Tunisia</b>	39-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Turkey</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Turkmenistan</b>	81-92, 94-96, 99-101, 103, 104, 106	108
<b>Tuvalu</b>		99-101, 103, 104, 106, 108
<b>Uganda</b>	47-56, 58-72, 74-92, 94-96, 99-101, 103, 104	106, 108
<b>Ukraine</b>	37-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>United Arab Emirates</b>	58-72, 74-92, 95, 96	94, 99-101, 103, 104, 106, 108
<b>United Kingdom</b>	31-56, 58-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>United States</b>	66-72, 74-92, 94-96, 99-101, 103, 104, 106	108
<b>Uruguay</b>	31-56, 58-72, 74-89, 90 (R193, R194), 91, 92, 95 (R197, R198), 99-101, 103 (R203), 104	90 (P155), 94, 95 (C187), 96, 103 (P029), 106, 108
<b>Uzbekistan</b>	80-92, 94-96, 99-101, 103, 104, 106	108
<b>Vanuatu</b>		91, 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)
<b>Venezuela, Bolivarian Republic of</b>	41-56, 58-72, 74-92, 94-96, 99-101, 103	<b>104, 106, 108</b>
<b>Viet Nam</b>	79-92, 94-96, 99-101, 103, 104	<b>106, 108</b>
<b>Yemen</b>	49-56, 58-72, 74-87, 88 (C183), 89 (C184), 91, 95 (C187)	<b>88 (R191), 89 (R192), 90, 92, 94, 95 (R197, R198), 96, 99-101, 103, 104, 106, 108</b>
<b>Zambia</b>	49-56, 58-72, 74-92, 94-96	<b>99-101, 103, 104, 106, 108</b>
<b>Zimbabwe</b>	66-72, 74-92, 94-96, 99-101, 103, 104, 106	<b>108</b>

**Appendix VI. Overall position of member States with regard to  
the submission to the competent authorities of  
the instruments adopted by the Conference  
(as of 7 December 2019)**

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*

<b>54th</b> (June 1970)	119	1	0	<b>120</b>
<b>55th</b> (October 1970)	120	0	0	<b>120</b>
<b>56th</b> (June 1971)	120	0	0	<b>120</b>
<b>58th</b> (June 1973)	122	1	0	<b>123</b>
<b>59th</b> (June 1974)	125	0	0	<b>125</b>
<b>60th</b> (June 1975)	125	1	0	<b>126</b>
<b>61st</b> (June 1976)	131	0	0	<b>131</b>
<b>62nd</b> (October 1976)	129	1	1	<b>131</b>
<b>63rd</b> (June 1977)	131	2	1	<b>134</b>
<b>64th</b> (June 1978)	134	0	1	<b>135</b>
<b>65th</b> (June 1979)	135	0	2	<b>137</b>
<b>66th</b> (June 1980)	138	0	4	<b>142</b>
<b>67th</b> (June 1981)	138	4	1	<b>143</b>
<b>68th</b> (June 1982)	142	2	3	<b>147</b>
<b>69th</b> (June 1983)	143	2	3	<b>148</b>
<b>70th</b> (June 1984)	143	0	6	<b>149</b>
<b>71st</b> (June 1985)	145	1	3	<b>149</b>
<b>72nd</b> (June 1986)	145	0	4	<b>149</b>
<b>74th</b> (October 1987)	147	0	2	<b>149</b>
<b>75th</b> (June 1988)	144	2	3	<b>149</b>
<b>76th</b> (June 1989)	142	0	5	<b>147</b>
<b>77th</b> (June 1990)	136	3	8	<b>147</b>
<b>78th</b> (June 1991)	140	0	9	<b>149</b>
<b>79th</b> (June 1992)	145	1	10	<b>156</b>
<b>80th</b> (June 1993)	151	2	14	<b>167</b>
<b>81st</b> (June 1994)	156	1	14	<b>171</b>
<b>82nd</b> (June 1995)	148	9	16	<b>173</b>
<b>83rd</b> (June 1996)	149	2	23	<b>174</b>
<b>84th</b> (October 1996)	155	3	16	<b>174</b>
<b>85th</b> (June 1997)	149	2	23	<b>174</b>
<b>86th</b> (June 1998)	143	0	31	<b>174</b>
<b>87th</b> (June 1999)	173	0	1	<b>174</b>
<b>88th</b> (June 2000)	143	4	28	<b>175</b>
<b>89th</b> (June 2001)	138	4	33	<b>175</b>

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	
<b>90th</b> (June 2002)	133	7	35	<b>175</b>
<b>91st</b> (June 2003)	145	0	31	<b>176</b>
<b>92nd</b> (June 2004)	134	0	43	<b>177</b>
<b>94th</b> (February 2006)	149	0	29	<b>178</b>
<b>95th</b> (June 2006)	130	14	34	<b>178</b>
<b>96th</b> (June 2007)	126	2	50	<b>178</b>
<b>99th</b> (June 2010)	116	0	67	<b>183</b>
<b>100th</b> (June 2011)	120	3	60	<b>183</b>
<b>101st</b> (June 2012)	114	0	71	<b>185</b>
<b>103rd</b> (June 2014)	90	13	82	<b>185</b>
<b>104th</b> (June 2015)	94	0	92	<b>186</b>
<b>106th</b> (June 2017)	70	0	117	<b>187</b>
<b>108th</b> (June 2019)	4	0	183	<b>187</b>

## 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.*

<b>Afghanistan</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 100, 111</b></p> <p><i>Direct requests on Conventions Nos 13, 45, 95, 111, 137, 139, 140, 141, 142, 144</i></p> <p><i>Direct request on submission</i></p>
<b>Albania</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 81, 87, 98, 111, 129</b></p> <p><i>Direct requests on Conventions Nos 81, 100, 111, 129, 144, 151, 154, 177</i></p> <p><b>Observation on submission</b></p>
<b>Algeria</b>	<p><b>Observations on Conventions Nos 32, 87, 98, 144</b></p> <p><i>Direct requests on Conventions Nos 87, 142, 186</i></p> <p><i>Direct request on submission</i></p>
<b>Angola</b>	<p><b>General observation</b></p> <p><b>Observation on Convention No. 98</b></p> <p><i>Direct requests on Conventions Nos 1, 12, 14, 18, 27, 81, 87, 89, 98, 100, 106</i></p> <p><i>Response received to a direct request on Convention No. 26</i></p> <p><b>Observation on submission</b></p>
<b>Antigua and Barbuda</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 100, 111, 144, 151</b></p> <p><i>Direct requests on Conventions Nos 87, 100, 111, 135, 142, 186</i></p> <p><b>Observation on submission</b></p>
<b>Argentina</b>	<p><b>Observations on Conventions Nos 87, 154</b></p> <p><i>Direct requests on Conventions Nos 17, 42, 98, 102, 144, 177, 189</i></p> <p><i>Response received to a direct request on Convention No. 151</i></p> <p><i>Direct request on submission</i></p>
<b>Armenia</b>	<p><i>Direct requests on Conventions Nos 87, 98</i></p> <p><i>Direct request on submission</i></p>
<b>Australia</b>	<p><b>Observations on Conventions Nos 87, 98, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 100, 111, 112, 135</i></p> <p><i>Response received to direct requests on Conventions Nos. 99, 131, 173</i></p>
<b>Austria</b>	<p><i>Direct requests on Conventions Nos 24, 98, 135</i></p> <p><i>Response received to a direct request on Convention No. 128</i></p> <p><i>Direct request on submission</i></p>
<b>Azerbaijan</b>	<p><b>Observation on Convention No. 98</b></p> <p><i>Direct requests on Conventions Nos 27, 87, 140, 142, 149, 185</i></p> <p><b>Observation on submission</b></p>
<b>Bahamas</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 87, 117, 144, 186</i></p> <p><b>Observation on submission</b></p>
<b>Bahrain</b>	<p><b>Observation on submission</b></p>
<b>Bangladesh</b>	<p><b>Observations on Conventions Nos 81, 87, 98, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 27, 32, 81, 100, 111, 149, 185</i></p>

<b>Barbados</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 97, 98, 100, 111, 118</b></p> <p><i>Direct requests on Conventions Nos 81, 87, 97, 98, 100, 102, 105, 111, 122, 128, 144, 186</i></p> <p><i>Response received to a direct request on Convention No. 138</i></p> <p><i>Direct request on submission</i></p>
<b>Belarus</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 32, 142, 144, 149</i></p>
<b>Belgium</b>	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 26, 32, 87, 95, 98, 99, 130, 151, 156, 175, 186</i></p> <p><i>Response received to direct requests on Conventions Nos. 1, 14, 102, 121, 132</i></p>
<b>Belize</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 98, 105, 115</b></p> <p><i>Direct requests on Conventions Nos 29, 88, 97, 100, 105, 111, 138, 140, 144, 150, 154, 155, 156, 182, 186</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 95, 99</i></p> <p><b>Observation on submission</b></p>
<b>Benin</b>	<p><b>Observations on Conventions Nos 87, 111, 143</b></p> <p><i>Direct requests on Conventions Nos 26, 95, 98, 100, 111, 143, 154</i></p> <p><i>Response received to a direct request on Convention No. 87</i></p> <p><i>Direct request on submission</i></p>
<b>Bolivia, Plurinational State of</b>	<p><b>Observations on Conventions Nos 87, 98, 100, 131, 136, 162, 169</b></p> <p><i>Direct requests on Conventions Nos 100, 111, 117, 136, 162, 167, 169, 189</i></p> <p><b>Observation on submission</b></p>
<b>Bosnia and Herzegovina</b>	<p><b>Observation on Convention No. 87</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 102, 121, 135, 142, 144, 151, 154, 185, 188</i></p>
<b>Botswana</b>	<p><b>Observations on Conventions Nos 87, 98, 151</b></p> <p><i>Direct request on Convention No. 87</i></p> <p><i>Direct request on submission</i></p>
<b>Brazil</b>	<p><b>Observations on Conventions Nos 98, 141, 169</b></p> <p><i>Direct requests on Conventions Nos 81, 98, 102, 118, 135, 137, 140, 142, 151, 168, 169, 185</i></p> <p><i>Response received to direct requests on Conventions Nos. 42, 152</i></p> <p><i>Direct request on submission</i></p>
<b>Brunei Darussalam</b>	<p><b>General observation</b></p> <p><i>Direct requests on Conventions Nos 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>Bulgaria</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 32, 44, 95, 102, 144, 186</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 42, 173</i></p>
<b>Burkina Faso</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 98, 131, 144</i></p> <p><i>Response received to direct requests on Conventions Nos. 87, 95, 173</i></p> <p><i>Direct request on submission</i></p>
<b>Burundi</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 11, 26, 87, 98, 144</b></p> <p><i>Direct requests on Conventions Nos 1, 14, 52, 87, 89, 101, 135</i></p> <p><i>Direct request on submission</i></p>
<b>Cabo Verde</b>	<p><b>Observations on Conventions Nos 100, 111</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 100, 111</i></p>
<b>Cambodia</b>	<p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 87, 122</i></p> <p><i>Direct request on submission</i></p>

<b>Cameroon</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 98, 100, 111, 143, 158</b></p> <p><i>Direct requests on Conventions Nos 95, 97, 100, 108, 111, 131, 143, 146</i></p> <p><i>Direct request on submission</i></p>
<b>Canada</b>	<p><b>Observation on Convention No. 87</b></p> <p><i>Direct requests on Conventions Nos 32, 87, 98, 108, 138</i></p>
<b>Central African Republic</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 144</i></p> <p><b>Observation on submission</b></p>
<b>Chad</b>	<p><b>Observations on Conventions Nos 29, 87, 151, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 87, 95, 98, 105, 138, 182</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 173</i></p> <p><b>Observation on submission</b></p>
<b>Chile</b>	<p><b>Observations on Conventions Nos 24, 25, 87, 98, 144</b></p> <p><i>Direct requests on Conventions Nos 32, 87, 98, 187</i></p> <p><i>Response received to a direct request on Convention No. 121</i></p> <p><b>Observation on submission</b></p>
<b>China</b>	<p><b>Observations on Conventions Nos 155, 167</b></p> <p><i>Direct requests on Conventions Nos 155, 167, 170</i></p>
<b>Hong Kong Special Administrative Region</b>	<p><b>Observations on Conventions Nos 87, 98, 144</b></p> <p><i>Direct request on Convention No. 97</i></p>
<b>Macau Special Administrative Region</b>	<p><b>Observations on Conventions Nos 87, 98</b></p>
<b>Colombia</b>	<p><b>Observations on Conventions Nos 87, 98, 169, 189</b></p> <p><i>Direct requests on Conventions Nos 12, 17, 18, 19, 22, 23, 24, 25, 87, 98, 169, 189</i></p> <p><i>Direct request on submission</i></p>
<b>Comoros</b>	<p><b>Observations on Conventions Nos 26, 95, 98, 99</b></p> <p><i>Direct requests on Conventions Nos 52, 87, 89, 98, 144</i></p> <p><b>Observation on submission</b></p>
<b>Congo</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 29, 81, 87, 100, 111, 152, 182</b></p> <p><i>Direct requests on Conventions Nos 26, 29, 87, 95, 98, 100, 105, 111, 144, 149, 182, 185, 186</i></p> <p><b>Observation on submission</b></p>
<b>Cook Islands</b>	<p><i>Direct requests on Conventions Nos 14, 29, 99, 105</i></p>
<b>Costa Rica</b>	<p><b>Observations on Conventions Nos 87, 95, 98, 100, 144, 189</b></p> <p><i>Direct requests on Conventions Nos 87, 102, 111, 113, 114, 117, 134, 147, 189</i></p> <p><i>Response received to a direct request on Convention No. 131</i></p> <p><i>Direct request on submission</i></p>
<b>Côte d'Ivoire</b>	<p><b>Observation on Convention No. 144</b></p> <p><i>Direct requests on Conventions Nos 26, 87, 95, 98, 99, 110</i></p> <p><i>Direct request on submission</i></p>
<b>Croatia</b>	<p><b>Observations on Conventions Nos 98, 111</b></p> <p><i>Direct requests on Conventions Nos 87, 98, 100, 111, 156</i></p> <p><i>Response received to a direct request on Convention No. 132</i></p> <p><b>Observation on submission</b></p>
<b>Cuba</b>	<p><b>Observations on Conventions Nos 87, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 22, 98, 100, 108, 111, 113</i></p> <p><i>Response received to a direct request on Convention No. 87</i></p>
<b>Cyprus</b>	<p><b>Observations on Conventions Nos 97, 111, 143</b></p> <p><i>Direct requests on Conventions Nos 81, 95, 97, 100, 102, 111, 114, 121, 128, 143, 144, 186</i></p>
<b>Czech Republic</b>	<p><i>Direct requests on Conventions Nos 87, 98, 140, 142, 154</i></p>

<b>Democratic Republic of the Congo</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 26, 95, 135</i> <b>Observation on submission</b>
<b>Denmark</b>	<b>Observation on Convention No. 98</b> <i>Direct requests on Conventions Nos 87, 186</i>
Faroe Islands	<i>Direct requests on Conventions Nos 108, 186</i>
<b>Djibouti</b>	<b>General observation</b> <b>Observations on Conventions Nos 19, 24, 26, 37, 38, 87, 95, 99, 122, 138, 144, 182</b> <i>Direct requests on Conventions Nos 17, 18, 29, 71, 81, 87, 98, 100, 105, 111, 138, 182</i> <i>Direct request on submission</i>
<b>Dominica</b>	<b>General observation</b> <b>Observations on Conventions Nos 29, 81, 94, 138, 147</b> <i>Direct requests on Conventions Nos 12, 19, 26, 29, 87, 95, 97, 100, 105, 111, 135, 144, 150, 169, 182</i> <b>Observation on submission</b>
<b>Dominican Republic</b>	<b>Observations on Conventions Nos 19, 87, 98, 144</b> <i>Direct request on Convention No. 98</i> <i>Direct request on submission</i>
<b>Ecuador</b>	<b>Observations on Conventions Nos 81, 87, 98, 110</b> <i>Direct requests on Conventions Nos 81, 87, 114, 117, 131, 142, 149, 189</i> <i>Response received to a direct request on Convention No. 95</i> <i>Direct request on submission</i>
<b>Egypt</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 22, 55, 56, 68, 69, 92, 95, 107, 131, 134, 142, 144, 147, 149, 166</i>
<b>El Salvador</b>	<b>Observations on Conventions Nos 87, 98, 100, 111, 144, 149</b> <i>Direct requests on Conventions Nos 100, 111, 122, 142, 156</i> <b>Observation on submission</b>
<b>Equatorial Guinea</b>	<b>General observation</b> <b>Observations on Conventions Nos 87, 98, 103, 111</b> <i>Direct requests on Conventions Nos 1, 29, 30, 68, 92, 105, 138, 182</i> <b>Observation on submission</b>
<b>Eritrea</b>	<i>General direct request</i> <b>Observations on Conventions Nos 87, 98, 105, 111, 138</b> <i>Direct requests on Conventions Nos 87, 100, 105, 111, 138</i> <i>Direct request on submission</i>
<b>Estonia</b>	<i>Direct requests on Conventions Nos 19, 87, 98, 144, 186, 188</i> <i>Response received to a direct request on Convention No. 108</i>
<b>Eswatini</b>	<b>Observations on Conventions Nos 100, 111, 144</b> <i>Direct requests on Conventions Nos 100, 111</i> <b>Observation on submission</b>
<b>Ethiopia</b>	<b>Observations on Conventions Nos 87, 98, 138, 181</b> <i>Direct requests on Conventions Nos 87, 138</i> <i>Direct request on submission</i>
<b>Fiji</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct requests on Conventions Nos 26, 142, 149, 172, 186</i> <b>Observation on submission</b>
<b>Finland</b>	<i>Direct requests on Conventions Nos 121, 130, 149, 168, 186</i> <i>Response received to a direct request on Convention No. 128</i>
<b>France</b>	<i>Direct requests on Conventions Nos 81, 87, 97, 98, 106, 118, 125, 129, 142, 185, 186, 188</i> <i>Response received to direct requests on Conventions Nos. 36, 95, 131, 137, 152</i> <i>Direct request on submission</i>

<b>French Polynesia</b>	<i>Direct requests on Conventions Nos 22, 29, 69, 142, 144</i> <i>Response received to direct requests on Conventions Nos. 95, 131</i>
<b>French Southern and Antarctic Territories New Caledonia</b>	<i>Direct request on Convention No. 134</i>  <i>General direct request</i> <i>Direct requests on Conventions Nos 125, 131, 142, 144, 149</i> <i>Response received to a direct request on Convention No. 95</i>
<b>Gabon</b>	<b>General observation</b> <b>Observations on Conventions Nos 138, 182</b> <i>Direct requests on Conventions Nos 26, 95, 99, 105, 138, 144, 161, 182, 186</i> <b>Observation on submission</b>
<b>Gambia</b>	<b>Observations on Conventions Nos 87, 98, 138, 182</b> <i>Direct requests on Conventions Nos 29, 87, 105, 138, 182</i> <b>Observation on submission</b>
<b>Georgia</b>	<i>Direct request on Convention No. 185</i> <i>Direct request on submission</i>
<b>Germany</b>	<i>Direct requests on Conventions Nos 97, 140, 172, 186</i> <i>Response received to a direct request on Convention No. 27</i> <i>Direct request on submission</i>
<b>Ghana</b>	<b>Observations on Conventions Nos 100, 111, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 111, 117, 144, 149, 182</i> <i>Direct request on submission</i>
<b>Greece</b>	<b>Observations on Conventions Nos 42, 100, 111, 156</b> <i>Direct requests on Conventions Nos 19, 29, 95, 100, 102, 111, 144, 149, 156, 186</i>
<b>Grenada</b>	<b>General observation</b> <b>Observations on Conventions Nos 81, 144</b> <i>Direct requests on Conventions Nos 81, 87, 97, 100, 105, 111, 138, 182</i> <b>Observation on submission</b>
<b>Guatemala</b>	<b>Observations on Conventions Nos 87, 98, 100, 105</b> <i>Direct requests on Conventions Nos 29, 97, 100, 111, 117</i> <i>Response received to a direct request on Convention No. 95</i>
<b>Guinea</b>	<i>General direct request</i> <b>Observations on Conventions Nos 95, 111, 118, 152, 156</b> <i>Direct requests on Conventions Nos 26, 89, 99, 100, 111, 117, 118, 121, 122, 140, 143, 149, 156</i> <b>Observation on submission</b>
<b>Guinea - Bissau</b>	<b>Observations on Conventions Nos 26, 98</b> <i>Direct requests on Conventions Nos 17, 29, 68, 69, 88, 105, 108, 138, 182</i> <b>Observation on submission</b>
<b>Guyana</b>	<i>General direct request</i> <b>Observations on Conventions Nos 98, 100, 111, 138, 139, 140</b> <i>Direct requests on Conventions Nos 94, 97, 142, 144, 149, 166, 172, 182, 189</i> <i>Response received to a direct request on Convention No. 131</i> <b>Observation on submission</b>
<b>Haiti</b>	<i>General direct request</i> <b>Observations on Conventions Nos 12, 17, 24, 25, 42, 87, 98, 182</b> <i>Direct requests on Conventions Nos 29, 77, 78, 87, 100, 111, 138, 182</i> <b>Observation on submission</b>
<b>Honduras</b>	<b>Observations on Conventions Nos 42, 81, 87, 100, 169</b> <i>Direct requests on Conventions Nos 27, 29, 81, 100, 102, 105, 111, 169</i> <i>Direct request on submission</i>

<b>Hungary</b>	<b>Observation on Convention No. 17</b> <i>Direct requests on Conventions Nos 12, 17, 24, 29, 42, 95, 105, 140, 144, 186</i> <i>Response received to direct requests on Conventions Nos. 26, 99, 182</i> <b>Observation on submission</b>
<b>India</b>	<b>Observations on Conventions Nos 81, 111</b> <i>Direct requests on Conventions Nos 81, 111, 142, 144, 185</i> <i>Response received to a direct request on Convention No. 27</i>
<b>Indonesia</b>	<i>Direct request on Convention No. 185</i>
<b>Iran, Islamic Republic of</b>	<i>Direct request on Convention No. 142</i> <b>Observation on submission</b>
<b>Iraq</b>	<b>Observation on Convention No. 182</b> <i>Direct requests on Conventions Nos 22, 23, 27, 92, 95, 107, 122, 131, 142, 146, 147, 172, 182</i> <b>Observation on submission</b>
<b>Ireland</b>	<i>Direct requests on Conventions Nos 29, 81, 121, 139, 142, 172, 189</i> <i>Response received to direct requests on Conventions Nos. 26, 99</i>
<b>Israel</b>	<i>Direct requests on Conventions Nos 95, 118</i>
<b>Italy</b>	<b>Observations on Conventions Nos 81, 129</b> <i>Direct requests on Conventions Nos 81, 95, 102, 118, 129, 186</i> <i>Response received to direct requests on Conventions Nos. 26, 99</i>
<b>Jamaica</b>	<b>General observation</b> <b>Observations on Conventions Nos 100, 105, 117, 138, 182</b> <i>Direct requests on Conventions Nos 29, 97, 100, 144, 182</i>
<b>Japan</b>	<b>Observation on Convention No. 87</b> <i>Direct requests on Conventions Nos 102, 121, 131, 142</i> <i>Response received to a direct request on Convention No. 19</i>
<b>Jordan</b>	<b>Observation on Convention No. 111</b> <i>Direct requests on Conventions Nos 102, 111</i> <i>Direct request on submission</i>
<b>Kazakhstan</b>	<b>Observations on Conventions Nos 87, 105</b> <i>Direct requests on Conventions Nos 95, 105, 144, 185</i> <b>Observation on submission</b>
<b>Kenya</b>	<b>Observations on Conventions Nos 105, 138, 182</b> <i>Direct requests on Conventions Nos 29, 105, 138, 142, 144, 149, 182</i> <i>Direct request on submission</i>
<b>Kiribati</b>	<b>Observation on Convention No. 105</b> <i>Direct requests on Conventions Nos 29, 87, 98, 100, 105</i> <b>Observation on submission</b>
<b>Korea, Republic of</b>	<b>Observations on Conventions Nos 19, 81, 142</b> <i>Direct requests on Conventions Nos 81, 131, 185, 187</i>
<b>Kuwait</b>	<i>Direct requests on Conventions Nos 117, 144</i> <b>Observation on submission</b>
<b>Kyrgyzstan</b>	<b>Observation on Convention No. 87</b> <i>Direct requests on Conventions Nos 27, 87, 98, 124</i> <b>Observation on submission</b>
<b>Lao People's Democratic Republic</b>	<b>Observations on Conventions Nos 138, 182</b> <i>Direct requests on Conventions Nos 29, 138, 144, 171, 182</i> <i>Direct request on submission</i>
<b>Latvia</b>	<i>Direct requests on Conventions Nos 81, 129, 186</i> <i>Response received to direct requests on Conventions Nos. 131, 173</i>

<b>Lebanon</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 17, 19, 29, 81, 100, 111, 115, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 81, 88, 95, 100, 105, 111, 115, 120, 122, 127, 131, 136, 138, 139, 142, 148, 150, 152, 159, 170, 172, 174, 176, 182</i></p> <p><b>Observation on submission</b></p>
<b>Lesotho</b>	<p><i>Direct request on Convention No. 144</i></p> <p><i>Direct request on submission</i></p>
<b>Liberia</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 98, 112, 113, 114</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 111, 144</i></p> <p><b>Observation on submission</b></p>
<b>Libya</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 100, 111, 122</b></p> <p><i>Direct requests on Conventions Nos 88, 95, 96, 100, 111, 131</i></p> <p><b>Observation on submission</b></p>
<b>Lithuania</b>	<p><i>Direct requests on Conventions Nos 142, 149, 186, 188</i></p> <p><i>Response received to direct requests on Conventions Nos. 131, 173</i></p>
<b>Luxembourg</b>	<p><i>Direct requests on Conventions Nos 142, 185, 186</i></p>
<b>Madagascar</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 100, 105, 111, 122, 138, 144, 182</b></p> <p><i>Direct requests on Conventions Nos 26, 29, 88, 95, 100, 111, 117, 159, 182</i></p> <p><i>Response received to a direct request on Convention No. 173</i></p> <p><i>Direct request on submission</i></p>
<b>Malawi</b>	<p><b>Observations on Conventions Nos 111, 144, 182</b></p> <p><i>Direct requests on Conventions Nos 98, 100, 111, 182</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 99, 105, 107</i></p> <p><b>Observation on submission</b></p>
<b>Malaysia</b>	<p><b>Observation on Convention No. 100</b></p> <p><i>Direct requests on Conventions Nos 100, 131, 144</i></p> <p><b>Observation on submission</b></p>
Peninsular	<p><b>Observation on Convention No. 19</b></p> <p><i>Direct request on Convention No. 19</i></p>
Sarawak	<p><b>Observation on Convention No. 19</b></p> <p><i>Direct requests on Conventions Nos 19, 94</i></p>
<b>Maldives, Republic of</b>	<p><b>General observation</b></p> <p><i>Direct requests on Conventions Nos 111, 186</i></p> <p><b>Observation on submission</b></p>
<b>Mali</b>	<p><i>Direct requests on Conventions Nos 26, 81, 88, 95, 181</i></p>
<b>Malta</b>	<p><b>Observations on Conventions Nos 81, 100, 111, 129</b></p> <p><i>Direct requests on Conventions Nos 2, 32, 62, 81, 88, 96, 100, 111, 117, 119, 127, 129, 136, 148</i></p> <p><i>Response received to direct requests on Conventions Nos. 95, 131</i></p> <p><b>Observation on submission</b></p>
<b>Marshall Islands</b>	<p><i>Direct request on Convention No. 185</i></p> <p><b>Observation on submission</b></p>
<b>Mauritania</b>	<p><b>Observations on Conventions Nos 29, 105, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 26, 95, 105, 112, 138, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Mauritius</b>	<p><i>Direct requests on Conventions Nos 26, 32, 99, 189</i></p> <p><i>Response received to a direct request on Convention No. 95</i></p>

<b>Mexico</b>	<p><b>Observations on Conventions Nos 29, 169, 182</b>  <i>Direct requests on Conventions Nos 95, 131, 152, 169, 182</i>  <i>Response received to a direct request on Convention No. 173</i></p> <p><b>Observation on submission</b></p>
<b>Moldova, Republic of</b>	<p><b>Observations on Conventions Nos 81, 129</b>  <i>Direct requests on Conventions Nos 29, 92, 95, 105, 117, 131, 133, 138, 142, 144, 158, 182</i></p> <p><b>Observation on submission</b></p>
<b>Mongolia</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 29, 100, 111, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 88, 100, 105, 111, 122, 144, 159, 181, 182</i>  <i>Direct request on submission</i></p>
<b>Montenegro</b>	<p><i>Direct requests on Conventions Nos 2, 81, 126, 129, 140, 142, 162, 167, 171, 187</i>  <i>Response received to a direct request on Convention No. 131</i></p>
<b>Morocco</b>	<p><i>Direct requests on Conventions Nos 27, 131, 186, 188</i></p>
<b>Mozambique</b>	<p><b>Observations on Conventions Nos 98, 105, 122</b>  <i>Direct requests on Conventions Nos 88, 98, 105, 144</i></p> <p><b>Observation on submission</b></p>
<b>Myanmar</b>	<p><b>Observation on Convention No. 29</b>  <i>Direct requests on Conventions Nos 26, 29, 186</i></p>
<b>Namibia</b>	<p><b>Observation on Convention No. 138</b>  <i>Direct requests on Conventions Nos 29, 105, 138, 182</i>  <i>Direct request on submission</i></p>
<b>Nepal</b>	<p><b>Observations on Conventions Nos 100, 111</b>  <i>Direct requests on Conventions Nos 100, 111, 131, 144</i>  <i>Direct request on submission</i></p>
<b>Netherlands</b>	<p><b>Observation on Convention No. 142</b>  <i>Direct requests on Conventions Nos 97, 131, 186</i></p> <p><b>Aruba</b>  <i>General direct request</i></p> <p><b>Observation on Convention No. 138</b>  <i>Direct requests on Conventions Nos 29, 87, 88, 94, 105, 122, 138, 140, 142, 144, 182</i>  <i>Response received to a direct request on Convention No. 95</i></p> <p><b>Caribbean Part of the Netherlands</b>  <b>Curaçao</b>  <i>Direct request on Convention No. 94</i>  <i>Response received to a direct request on Convention No. 95</i></p> <p><b>Sint Maarten</b>  <i>General direct request</i>  <i>Direct requests on Conventions Nos 88, 94, 122</i>  <i>Response received to a direct request on Convention No. 95</i></p>
<b>New Zealand</b>	<p><b>Observation on Convention No. 97</b>  <i>Direct request on Convention No. 97</i>  <i>Response received to direct requests on Conventions Nos. 26, 99</i></p>
<b>Nicaragua</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 100, 117</b>  <i>Direct requests on Conventions Nos 29, 88, 100, 110, 111, 122, 186</i>  <i>Response received to direct requests on Conventions Nos. 95, 131</i>  <i>Direct request on submission</i></p>
<b>Niger</b>	<p><i>Direct requests on Conventions Nos 81, 95, 117, 131</i></p>
<b>Nigeria</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 88, 100, 111, 159</b>  <i>Direct requests on Conventions Nos 32, 94, 100, 111</i>  <i>Direct request on submission</i></p>

<b>North Macedonia</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 87, 98, 111</b></p> <p><i>Direct requests on Conventions Nos 32, 88, 94, 111, 122, 140, 142, 158, 159, 177, 181</i></p> <p><b>Observation on submission</b></p>
<b>Norway</b>	<p><i>Direct requests on Conventions Nos 29, 142, 183, 186, 188</i></p> <p><i>Response received to direct requests on Conventions Nos. 12, 19, 26, 95, 118</i></p>
<b>Oman</b>	<p><b>Observations on Conventions Nos 29, 105</b></p> <p><i>Direct requests on Conventions Nos 29, 138, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Pakistan</b>	<p><b>Observations on Conventions Nos 29, 81, 105, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 81, 105, 138, 182, 185</i></p> <p><i>Response received to a direct request on Convention No. 27</i></p> <p><b>Observation on submission</b></p>
<b>Palau</b>	<p><i>Direct request on Convention No. 186</i></p> <p><i>Direct request on submission</i></p>
<b>Panama</b>	<p><b>Observations on Conventions Nos 17, 100, 107</b></p> <p><i>Direct requests on Conventions Nos 12, 81, 95, 100, 107, 111, 117, 138, 182</i></p> <p><i>Response received to a direct request on Convention No. 26</i></p> <p><i>Direct request on submission</i></p>
<b>Papua New Guinea</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 98, 111, 138, 158, 182</b></p> <p><i>Direct requests on Conventions Nos 27, 29, 87, 100, 105, 111, 122, 138, 182</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 99</i></p> <p><b>Observation on submission</b></p>
<b>Paraguay</b>	<p><b>Observations on Conventions Nos 117, 122, 138, 182, 189</b></p> <p><i>Direct requests on Conventions Nos 26, 59, 77, 78, 79, 90, 95, 99, 122, 138, 182, 189</i></p> <p><i>Direct request on submission</i></p>
<b>Peru</b>	<p><b>Observations on Conventions Nos 112, 113, 114, 182</b></p> <p><i>Direct requests on Conventions Nos 12, 19, 24, 25, 26, 77, 78, 99, 102, 138, 152, 182, 183</i></p> <p><i>Direct request on submission</i></p>
<b>Philippines</b>	<p><b>Observations on Conventions Nos 29, 87, 105, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 87, 95, 105, 151, 182, 185</i></p> <p><i>Response received to a direct request on Convention No. 99</i></p>
<b>Poland</b>	<p><b>Observations on Conventions Nos 29, 81, 111, 129</b></p> <p><i>Direct requests on Conventions Nos 19, 29, 81, 95, 99, 100, 102, 105, 111, 129, 186</i></p>
<b>Portugal</b>	<p><b>Observations on Conventions Nos 81, 129</b></p> <p><i>Direct requests on Conventions Nos 6, 12, 17, 18, 29, 81, 97, 100, 102, 111, 117, 129, 142, 143, 156, 173</i></p> <p><i>Response received to direct requests on Conventions Nos. 95, 131, 149</i></p>
<b>Qatar</b>	<p><b>Observations on Conventions Nos 29, 81, 105</b></p> <p><i>Direct requests on Conventions Nos 29, 81</i></p>
<b>Romania</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 87, 98</b></p> <p><i>Direct request on Convention No. 87</i></p> <p><i>Response received to a direct request on Convention No. 182</i></p> <p><i>Direct request on submission</i></p>
<b>Russian Federation</b>	<p><b>Observation on Convention No. 81</b></p> <p><i>Direct requests on Conventions Nos 81, 140, 142, 185, 186</i></p> <p><i>Direct request on submission</i></p>
<b>Rwanda</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 26, 87, 98, 100, 105</b></p> <p><i>Direct requests on Conventions Nos 29, 87, 89, 98, 100, 138, 182</i></p> <p><b>Observation on submission</b></p>

<b>Saint Kitts and Nevis</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 98, 100</b></p> <p><i>Direct requests on Conventions Nos 29, 87, 100, 105, 111, 138, 182, 186</i></p> <p><b>Observation on submission</b></p>
<b>Saint Lucia</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 17, 87, 98, 100</b></p> <p><i>Direct requests on Conventions Nos 5, 19, 29, 87, 100, 108, 111, 154, 158, 182</i></p> <p><b>Observation on submission</b></p>
<b>Saint Vincent and the Grenadines</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 81, 100, 182</b></p> <p><i>Direct requests on Conventions Nos 81, 94, 95, 100, 105, 108, 111, 122, 129, 138, 144, 182</i></p> <p><i>Response received to a direct request on Convention No. 26</i></p> <p><b>Observation on submission</b></p>
<b>Samoa</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>San Marino</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 148, 160</b></p> <p><i>Direct requests on Conventions Nos 98, 140, 156, 159</i></p> <p><i>Direct request on submission</i></p>
<b>Sao Tome and Principe</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 98, 100, 111</b></p> <p><i>Direct requests on Conventions Nos 29, 81, 87, 100, 111, 138, 155, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Saudi Arabia</b>	<p><b>Observations on Conventions Nos 29, 81, 111, 138</b></p> <p><i>Direct requests on Conventions Nos 29, 81, 100, 105, 111, 138, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Senegal</b>	<p><b>Observations on Conventions Nos 29, 105, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 19, 26, 29, 99, 102, 117, 121, 122, 125, 182, 183</i></p> <p><i>Response received to a direct request on Convention No. 95</i></p>
<b>Serbia</b>	<p><b>Observations on Conventions Nos 81, 87, 122, 129, 144</b></p> <p><i>Direct requests on Conventions Nos 81, 87, 102, 121, 122, 129, 131, 140, 142, 186</i></p>
<b>Seychelles</b>	<p><i>Direct requests on Conventions Nos 100, 111, 149</i></p> <p><b>Observation on submission</b></p>
<b>Sierra Leone</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 17, 29, 81, 98, 119, 125, 138</b></p> <p><i>Direct requests on Conventions Nos 26, 81, 87, 94, 95, 101, 105, 126, 138, 182</i></p> <p><b>Observation on submission</b></p>
<b>Singapore</b>	<p><b>Observation on Convention No. 100</b></p> <p><i>Direct requests on Conventions Nos 29, 32, 81, 98, 100, 186</i></p> <p><i>Response received to a direct request on Convention No. 182</i></p> <p><i>Direct request on submission</i></p>
<b>Slovakia</b>	<p><b>Observations on Conventions Nos 100, 111</b></p> <p><i>Direct requests on Conventions Nos 81, 100, 102, 111, 129, 130</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 95, 99, 142, 173, 182</i></p>
<b>Slovenia</b>	<p><b>Observations on Conventions Nos 111, 156</b></p> <p><i>Direct requests on Conventions Nos 97, 100, 111, 121, 122, 140, 143, 149, 156, 171</i></p> <p><i>Response received to direct requests on Conventions Nos. 95, 131, 173</i></p>
<b>Solomon Islands</b>	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 29, 42, 95, 98, 105, 138, 182</i></p> <p><i>Response received to a direct request on Convention No. 26</i></p> <p><b>Observation on submission</b></p>

<b>Somalia</b>	<p><b>General observation</b></p> <p><b>Observations on Conventions Nos 87, 98, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 182</i></p> <p><b>Observation on submission</b></p>
<b>South Africa</b>	<p><b>Observation on Convention No. 87</b></p> <p><i>Direct requests on Conventions Nos 26, 98, 189</i></p> <p><i>Direct request on submission</i></p>
<b>South Sudan</b>	<p><i>Direct requests on Conventions Nos 29, 98, 105, 138, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Spain</b>	<p><b>Observations on Conventions Nos 113, 114, 117, 122, 126, 172, 182</b></p> <p><i>Direct requests on Conventions Nos 44, 77, 78, 140, 142, 152, 182, 185, 186</i></p> <p><i>Direct request on submission</i></p>
<b>Sri Lanka</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 29, 81, 98, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 81, 95, 105, 110, 131, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Sudan</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 29, 81, 98, 105, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 26, 29, 81, 95, 100, 105, 111, 117, 138, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Suriname</b>	<p><i>Direct request on Convention No. 95</i></p> <p><i>Direct request on submission</i></p>
<b>Sweden</b>	<p><i>Direct request on Convention No. 186</i></p> <p><i>Response received to a direct request on Convention No. 182</i></p>
<b>Switzerland</b>	<p><i>Direct request on Convention No. 189</i></p> <p><i>Response received to direct requests on Conventions Nos. 26, 173</i></p>
<b>Syrian Arab Republic</b>	<p><b>Observations on Conventions Nos 29, 100, 105, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 100, 105, 111, 117, 125, 144, 182</i></p> <p><i>Response received to direct requests on Conventions Nos. 95, 131</i></p> <p><b>Observation on submission</b></p>
<b>Tajikistan</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 81, 111, 138</b></p> <p><i>Direct requests on Conventions Nos 14, 29, 32, 47, 52, 81, 87, 95, 97, 98, 103, 105, 106, 111, 115, 119, 120, 122, 138, 142, 148, 149, 155, 160, 177, 182</i></p> <p><i>Direct request on submission</i></p>
<b>Tanzania, United Republic of</b>	<p><i>General direct request</i></p> <p><b>Observations on Conventions Nos 17, 19, 29, 100, 111, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 63, 95, 100, 105, 111, 138, 140, 142, 148, 152, 170, 182</i></p>
Tanzania. Tanganyika	<p><i>General direct request</i></p> <p><i>Direct request on Convention No. 81</i></p>
Tanzania. Zanzibar	<p><i>General direct request</i></p> <p><i>Direct requests on Conventions Nos 85, 97</i></p>
<b>Thailand</b>	<p><b>Observations on Conventions Nos 19, 29, 105, 122, 138, 182</b></p> <p><i>Direct requests on Conventions Nos 29, 105, 122, 127, 138, 182, 186, 187</i></p> <p><i>Response received to a direct request on Convention No. 14</i></p> <p><i>Direct request on submission</i></p>
<b>Timor-Leste</b>	<p><b>General observation</b></p> <p><i>Direct requests on Conventions Nos 29, 87, 98, 182</i></p> <p><b>Observation on submission</b></p>

<b>Togo</b>	<p><b>Observations on Conventions Nos 105, 111, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 81, 95, 100, 102, 105, 111, 129, 150, 182, 187</i>  <i>Response received to direct requests on Conventions Nos. 13, 14, 26</i>  <i>Direct request on submission</i></p>
<b>Tonga</b>	<p><i>Direct request on submission</i></p>
<b>Trinidad and Tobago</b>	<p><b>Observations on Conventions Nos 87, 98, 100, 111, 125</b>  <i>Direct requests on Conventions Nos 97, 100, 111, 122, 144</i></p>
<b>Tunisia</b>	<p><i>General direct request</i>  <b>Observation on Convention No. 182</b>  <i>Direct requests on Conventions Nos 29, 89, 107, 138, 142, 182, 185</i>  <i>Response received to direct requests on Conventions Nos. 26, 95, 99</i>  <i>Direct request on submission</i></p>
<b>Turkey</b>	<p><b>Observations on Conventions Nos 87, 98, 100, 111, 115, 119, 127, 135, 155, 161, 167, 176, 187</b>  <i>Direct requests on Conventions Nos 42, 87, 100, 102, 108, 111, 115, 119, 127, 152, 155, 161, 167, 176, 187</i>  <i>Response received to a direct request on Convention No. 105</i></p>
<b>Turkmenistan</b>	<p><b>Observations on Conventions Nos 105, 138, 182</b>  <i>Direct requests on Conventions Nos 29, 100, 105, 111, 138, 182, 185</i></p>
<b>Tuvalu</b>	<p><b>Observation on submission</b></p>
<b>Uganda</b>	<p><i>General direct request</i>  <b>Observations on Conventions Nos 26, 81, 87, 98, 105, 138, 182</b>  <i>Direct requests on Conventions Nos 17, 29, 81, 94, 95, 123, 124, 138, 143, 162, 182</i>  <i>Direct request on submission</i></p>
<b>Ukraine</b>	<p><b>Observations on Conventions Nos 81, 95, 122, 129, 131, 173</b>  <i>Direct requests on Conventions Nos 32, 81, 102, 115, 126, 129, 140, 142, 149</i></p>
<b>United Arab Emirates</b>	<p><b>Observations on Conventions Nos 100, 111</b>  <i>Direct requests on Conventions Nos 100, 111</i>  <b>Observation on submission</b></p>
<b>United Kingdom</b>	<p><b>Observations on Conventions Nos 17, 81, 111</b>  <i>Direct requests on Conventions Nos 32, 42, 97, 100, 102, 111, 115, 120, 140, 148, 186, 187</i>  <i>Response received to a direct request on Convention No. 150</i></p>
<b>Anguilla</b>	<p><i>Direct requests on Conventions Nos 14, 17, 26, 85, 99, 148</i>  <i>Response received to a direct request on Convention No. 101</i></p>
<b>British Virgin Islands</b>	<p><i>Direct request on Convention No. 85</i>  <i>Response received to direct requests on Conventions Nos. 14, 26</i></p>
<b>Cayman Islands</b>	<p><i>Direct request on Convention No. 186</i></p>
<b>Falkland Islands (Malvinas)</b>	<p><i>Direct requests on Conventions Nos 14, 45, 182</i></p>
<b>Gibraltar</b>	<p><i>Direct requests on Conventions Nos 45, 81, 150</i></p>
<b>Guernsey</b>	<p><i>Direct requests on Conventions Nos 97, 182</i></p>
<b>Isle of Man</b>	<p><i>Direct request on Convention No. 186</i>  <i>Response received to direct requests on Conventions Nos. 97, 99</i></p>
<b>Jersey</b>	<p><i>Response received to a direct request on Convention No. 99</i></p>
<b>Montserrat</b>	<p><i>Direct requests on Conventions Nos 26, 95</i>  <i>Response received to a direct request on Convention No. 14</i></p>
<b>St Helena</b>	<p><i>Response received to a direct request on Convention No. 14</i></p>
<b>United States</b>	<p><b>Observation on Convention No. 182</b></p>
<b>Uruguay</b>	<p><b>Observations on Conventions Nos 98, 121, 155, 161, 162, 182</b>  <i>Direct requests on Conventions Nos 14, 32, 81, 102, 103, 106, 115, 118, 121, 122, 129, 131, 136, 138, 139, 150, 155, 161, 162, 167, 176, 182, 184</i>  <i>Response received to direct requests on Conventions Nos. 1, 95, 128, 130, 132</i>  <i>Direct request on submission</i></p>

<b>Uzbekistan</b>	<b>Observations on Conventions Nos 105, 182</b> <i>Direct requests on Conventions Nos 29, 87, 103, 105, 182</i> <i>Response received to a direct request on Convention No. 138</i>
<b>Vanuatu</b>	<i>General direct request</i> <i>Direct request on Convention No. 182</i> <b>Observation on submission</b>
<b>Venezuela, Bolivarian Republic of</b>	<b>Observations on Conventions Nos 26, 95, 138, 182</b> <i>Direct requests on Conventions Nos 1, 138, 182</i> <i>Direct request on submission</i>
<b>Viet Nam</b>	<i>General direct request</i> <b>Observations on Conventions Nos 29, 138, 182</b> <i>Direct requests on Conventions Nos 27, 29, 120, 122, 138, 155, 182</i> <i>Direct request on submission</i>
<b>Yemen</b>	<i>General direct request</i> <b>Observations on Conventions Nos 138, 182</b> <i>Direct requests on Conventions Nos 14, 29, 95, 100, 105, 111, 131, 132, 138, 156, 182</i> <b>Observation on submission</b>
<b>Zambia</b>	<b>Observations on Conventions Nos 29, 103, 131, 138, 182</b> <i>Direct requests on Conventions Nos 17, 18, 29, 81, 95, 103, 117, 122, 129, 131, 136, 148, 149, 150, 155, 173, 176, 182, 187</i> <b>Observation on submission</b>
<b>Zimbabwe</b>	<b>Observations on Conventions Nos 87, 98</b> <i>Direct request on Convention No. 140</i>